## ALABAMA COASTAL AREA MANAGEMENT PROGRAM

### **REVISION 1**

DRAFT-REVIEW COPY



ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS
OFFICE OF STATE PLANNING AND FEDERAL PROGRAMS
March 1983

Bill



#### UNITED STATES DEPARTMENT OF COMMERCE National Oceanic and Atmospheric Administration Washington, D.C. 20230

THE ADMINISTRATOR

T0:

All NOAA Employees

FROM:

A - John V. Byrne

SUBJECT: NOAA's EEO Awareness Week Program - 1983

This year NOAA will celebrate its 7th annual Equal Employment Opportunity (EEO) Awareness Week Program during the week of June 13-17, 1983. As last year's program was so successful, the program theme has been carried through this year as: Preparedness for Employee Progress Part II: "The Role of the Manager in EEO."

A symposium series will be held at four NOAA locations in the Washington Metropolitan area during June 13-16, 1983, and will culminate with the traditional NOAA EEO Awareness Luncheon Program held in the Main Ballroom of the Bolling Air Force Base Officers' Club on June 17, 1983. NOAA's EEO Awareness Week Program activities should be of special importance to us all, and I encourage all NOAA employees to attend the scheduled symposium series and to share highlights of the commemorative luncheon program.

In line with my full support of these activities, I ask that managers and supervisors also provide full support for this worthwhile initiative by granting administrative leave, where possible, to employees who want to share and participate in NOAA's 1983 EEO Awareness Week Program.

For your convenience, the program for the week's events is printed on the reverse side of this memorandum.



#### NOAA'S 1983 EEO AWARENESS WEEK PROGRAM

#### THEME

PREPAREDNESS FOR EMPLOYEE PROGRESS PART II: "THE ROLE OF THE MANAGER IN EEO"

Symposium will be offered at each site, beginning at 8:15 a.m. to 12:00 Noon

#### DATES/LOCATIONS

Monday, June 13, 1983 WSC-5, Room 926 Rockville, MD

Tuesday, June 14, 1983 FB-4, Room 3309 Suitland, MD

Wednesday, June 15, 1983 Page 1, B100 - Naval Conf. Rm. Washington, D.C.

Thursday, June 16, 1983 National Guard Armory Wayne Avenue Silver Spring, MD

#### SYMPOSIUM AGENDA

 $\begin{array}{c} \textbf{Up-Date on the Reorganization} \\ \textbf{of NOAA} \end{array}$ 

NOAA Personnel Organization and Programs Up-Date

Civil Rights, Up-Date

Respective Site (LC) Manager, Mission and EEO Overview

The Role of the Manager in EEO Q & A

#### EEO AWARENESS DAY LUNCHEON

Bolling Air Force Base Officers' Club Friday, June 17, 1983 10:30 a.m. to 3:00 p.m.

#### - KEYNOTE SPEAKER -

Carole Randolph
Hostess, Morning Break, WDVM-TV

#### LUNCHEON MENU

Poached Filet of Haddock
Shrimp Sauce
Broiled Tomato
Parsley Boiled Potato
Tossed Salad
Roll Butter Beverage
Sherbet

0 t

Braised Chicken a la Coq Au Vin Broiled Tomato Vegetable duJour

Roll

Butter Sherbet Beverage

Cost of Luncheon - \$9.00

--Of Interest to Managers and the General Workforce

--All Commerce Employees are Cordially Invited

FOR INFORMATION: CONTACT Otto Meyers, Jr. or Brenda Rupli 377-0684

Sign Language Interpreter Will Be Provided

#### UNITED STATES DEPARTMENT OF COMMERCE

#### REVISION I

#### ALABAMA COASTAL AREA MANAGEMENT PROGRAM

#### Prepared for:

Office of Coastal Zone Management National Oceanic and Atmospheric Administration Department of Commerce 3300 Whitehaven Street, NW Washington, D.C. 20235

bу

Alabama Department of Economic and Community Affairs Office of State Planning and Federal Programs c/o State Capitol Montgomery, Alabama 36130

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#### Summary of Alabama Coastal Area Management Program

The Alabama Coastal Area Management Program was developed as a management tool for the protection and enhancement of Alabama's Coastal Area land and water resources. Alabama's coastal area is limited to those lands and waters seaward of the 10 foot contour but north of the 3 mile coastal boundary. Authority to develop and implement this program was originally granted to the Alabama Coastal Area Board (CAB) in 1976. This board completed the planning process (305) of the program, had it ratified in September 1979 and completed the first two years of implementation. In 1982 the CAB was abolished and the Coastal Area Program responsibilities were divided between two agencies, the Office of State Planning and Federal Programs (OSP) and the Alabama Department of Environmental Management (DEM).

Title 9 Chapter 7 of the Alabama Code provides the statutory authority to develop and implement a management program for the Alabama Coastal Area. This legislation granted the authority to review all uses which have a direct and significant impact on the Coastal Area. More specifically §9-7 authorized the states Coastal Management Agencies to require all activities in the coastal area to be consistent with the Management Program. To carry out this charge the Coastal Management Agencies must review applications for permits and related activities in the coastal area and are required to make a determination of the activity's consistency with the management program.

The basis for the review of uses for consistency or for a permit are the rules and regulations found in Part II. Chapter 4 of this document. Aside from a reliance on several existing statutes and standards, Coastal Management rules and regulations are divided into 3 categories: 1) general rules and regulations; 2) resource use rules and regulations, including regulations for:

- o siting, construction and operation of energy facilities
- o dredge and filling
- o snoreline erosion
- o public access
- o natural hazards, and
- o solid waste disposal

- 3) Natural resources rules and regulations, including regulations for:
  - o water quality
  - o wetlands and submerged grassbeds
  - o air quality
  - o beaches and dunes
  - o water resources
    - o protection of cultural resources
    - o fisheries management
    - o wildlife and wildlife habitats

Within the Coastal Area, specific areas have been designated which require attention beyond the general provisions of the management program. These two areas, the Port of Mobile and the Mobile - Tensaw River Delta have been designated as geographic areas of particular concern (GAPC). Use priorities as well as a description in each GAPC have been provided in Part II, Chapter Four.

Specific provisions and procedures have been established for the consideration of the national interest in the siting of facilities as well as the determination of Federal consistency.

#### What the Program Will Achieve

In futherance of the national goals of the Federal Coastal Zone Management Act (CZMA) and the goals and policies of the State of Alabama, the Alabama Coastal Area Management Program was designed to accomplish the following objectives through the receipt of implementation funds:

- o Improve the management capabilities in the coastal area.
- o Add specificity and predictability to the review for compliance with the management program.
- o Increase the states ability to develop methods to solve problems within the Coastal Area.
- o Continue to clarify the permitting process by making the public aware of DEM procedures and gaps in permit review procedures by improving interagency coordination.
- o Provide the necessary scientific data to determine "present levels" which is the basis for a number of the CAB's regulations.
- o Provide for adequate consideration of the national interest.
- o Assure continued consistency with the Program of all Federal and State actions in the coastal zone through a review of Federal and State actions that affect the coastal area.

#### Program Revision

Prior to the enactment of the coastal management program concern was frequently voiced about another layer of permits and the need for a consolidated permit review process. This need was echoed by the lack of cohesiveness and the costly duplication of effort that existed in the permit review process.

During the 1982 special legislature session Act 82-612 passed, creating one stop permitting in the State of Alabama. This legislation combined the permit related functions of most state agencies. As a result the Coastal Area Board was abolished. Its permit, enforcement, monitoring and related functions were transferred to the Department of Environmental Management, and all others were transferred to the Alabama Department of Economic and Community Affairs, Office of State Planning and Federal Programs. This change mandated some basic revisions to the Coastal Management Program. However, this consisted of little more than specifying the agencies that would be responsibility for carrying out the Coastal Management Program.

## PART I PURPOSE AND NEED.

#### PART I

#### PURPOSE AND NEED

In response to intense pressure, and because of the importance of coastal areas of the United States, Congress passed the Coastal Zone Management Act (P.L. 92-583) (CZMA) which was signed into law on October 27, 1972. The Act authorized a Federal grant-in-aid program to be administered by the Secretary of Commerce, who in turn delegated this responsibility to the National Oceanic and Atmospheric Administration's (NOAA) Office of Coastal Zone Management (OCZM). The Coastal Zone Management Act of 1972 was substantially amended on July 26, 1976 (P.L. 94-370). The Act and the 1976 amendments affirm a national interest in the effective protection and development of the coastal zone by providing assistance and encouragement to coastal states to develop and implement rational program for managing the coastal areas.

Broad guidelines and the basic requirements of the CZMA provide the necessary direction to states for developing coastal management programs. These guidelines and requirements for program development and continued approval are as follows:

- (1) Identifies and evaluates those coastal resources recognized in the Act that require management or protection by the state;
- (2) Re-examines existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed.
- (3) Determines specific uses and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. Uses and areas to be subject to management should be based on resource capability and suitability analyses, socio-economic considerations and public preferences;
- (4) Identified the inland and seaward areas subject to the management program;
- (5) Provides for the consideration of the national interest in the planning for and siting of facilities that meet more than local requirements; and
- (6) Includes sufficient legal authorities and organization arrangements to implement the program and to insure conformance with it.

In arriving at these substantive aspects of the management program, states were obliged to follow an open process which involves providing information to and considering the interests of the general public, special interest groups, local governments, and regional, state interstate and Federal agencies.

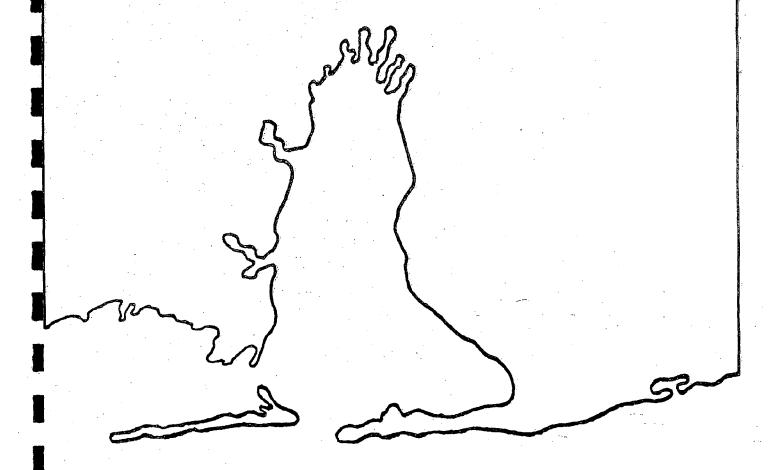
Section 306 of the CZM authorizes federal assistance to coastal states and territories for the implementation of its Coastal Management Program. After receiving program approval from OCZM Alabama received its first 306 grant in 1979 for a two year implementation effort. A second supplemental grant was awarded in September 1982.

Section 307 of the Act stipulates that Federal agency actions shall be consistent, to the maximum extent practicable, with approved State management programs. Section 307 further provides for mediation by the Secretary of Commerce when a serious disagreement arises between a Federal agency and a coastal state with respect to a Federal consistency issue.

An amendment to Alabama's coastal legislation in 1982 necessitated the revision of the states Coastal Management Program document. However, this revision is very minor in nature and primarily involves a change in the name of the agency implementing the program.

In accordance with NEPA guidelines an EIS is not required with this task.

#### ALABAMA COASTAL AREA MANAGEMENT PROGRAM



## Part II

#### CHAPTER ONE

#### EXECUTIVE SUMMARY

#### SECTION I. IMPORTANCE OF THE COASTAL AREA

After careful deliberation and study, the Alabama Legislature, in adopting the Alabama Coastal Area Act 534 (Title 9, Chapter 7, Code of Alabama) in 1976, as amended and reaffirmed in the Alabama Environmental Management Act (82-612) of 1982, found that:

- a. The coastal area is rich in a variety of natural, commercial, recreational, industrial, and aesthetic resources of immediate and potential value to the present and future well-being of the state.
- b. There are increasing and competing demands upon the lands and waters of the coastal area occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources.
- c. The coastal area and the fish, shellfish, other living marine resources, and wildlife therein are ecologically fragile and consequently vulnerable to destruction by man's alteration.
- d. Important ecological, cultural, historic, and aesthetic values to the coastal area are essential to the well-being of all citizens.
- e. Special natural and scenic characteristics may be damaged by ill-planned development.
- f. There is a state interest in the effective administration, beneficial use, protection, and development of the coastal area.
- g. In light of competing demands and the urgent need to balance development for the preservation of the natural systems in the coastal area, the key to more effective protection and use of land and water resources of the coastal area is to encourage the state to exercise its authority for improved and better methods of utilizing the lands and waters in the coastal area by developing, in cooperation with counties and municipalities and other vitality affected interests, land and water use programs for the coastal area, including unified policies, criteria, standards, methods, and processes for dealing with land and water use.

As a means of reemphasizing the need for unified policies and strategies for protecting the integrity of our coastal area the 1982 special session of the state legislature passed Act 82-612 which bears the legislative intent "to recognize the unique characteristics of the Alabama coastal region and to provide for its protection and enhancement through a continued coastal area program".

The coastal area with some 400,000 acres of bays and estuarine waters, 121,000 acres of wetlands, 130 identified species of birds, a commercial fishing catch with a final value estimated at \$148 million, and a registration of over 23,300 recreational boats, also has major industrial and municipal sources discharging 170 million gallons each day of various waste products into coastal waters, a booming second home construction business throughout the area's waterfront, a maintenance dredging requirement producing 7 million cubic yards of spoil material annually, the prospects of increased energy-related development (coal and oil), and the possibilities of additional growth related to Tennessee-Tombigbee Waterway. As competition for resources becomes more intense, special efforts must be made to provide methods to resolve potential conflicts in order to allow an opportunity for fishermen to harvest the rich coastal fishery yields while industries use the water resources for process water, transportation and some waste assimilation to provide employment opportunities for local residents. A balance must be achieved which sustains economic development on one hand and which protects natural resources on the other.

The Alabama Coastal Management Program provides a general management framework to address the many concerns within the coastal area. A program of this type is beneficial to all coastal interests — environmental, industrial, conservational, preservational, commercial, and governmental.

In response to State legislation, the Alabama Coastal Management Program was developed to protect and enhance its coastal resources. The first draft, the Workshop Draft, was made available for public review and comment. Based on all comments received plus the addition of new planning elements, the second draft, the Hearing Draft, was prepared. The Hearing Draft explained in more detail the framework for achieving the wisest use of our finite coastal resources in Alabama. Based on the comments received, the third draft, the Draft Environmental Impact Statement, was prepared. Again, based on all comments received, the Final Environmental Impact Statement was prepared.

The State of Alabama has now been afforded the opportunity to improve its Coastal Management Program by combining all coastal area permit, regulatory and enforcement functions into one agency, the Department of Environmental Management, and transferring all other functions and responsibilities of the Alabama Coastal Area Management Program (ACAMP) to the Office of State Planning and Federal Programs. This draft reflects those minor realignments in the ACAMP which are needed to document the change in the implementation process of the program as mandated by the passage of Act 82-612.

#### SECTION II. LEGAL BASIS FOR PROGRAM DEVELOPMENT

#### A. Alabama Law

The State of Alabama has recognized the intense stress on coastal resources. To deal effectively with these burgeoning pressures, the 1976 Regular Session of the Alabama Legislature passed Act Number 534 (\$9-7) which was further amended by Act 82-612. The primary purpose of this act and it's amendments is:

...To promote, improve and safeguard the lands and waters located in the coastal areas of this state through a comprehensive and cooperative program designed to preserve, enhance, and develop such valuable resources for the present and future well-being and general welfare of the citizens of this state.

In order to accomplish the above purpose, the legislature set forth the following State policies to guide the efforts of the Coastal Area:

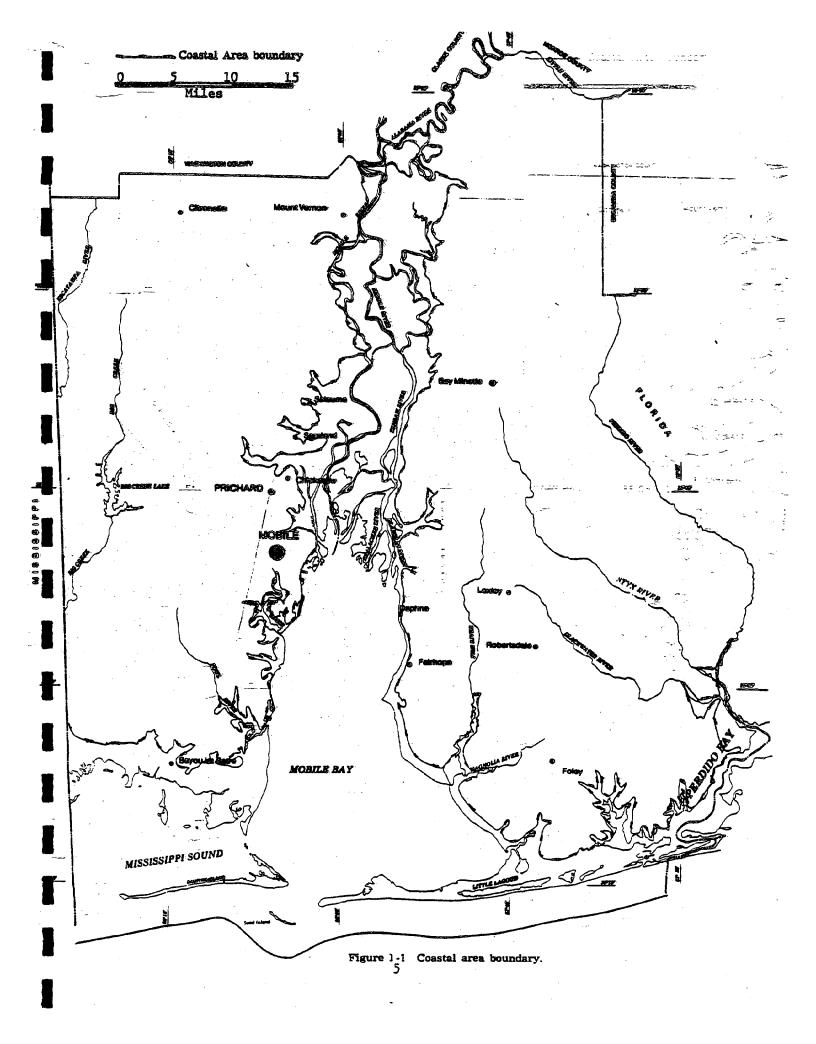
- a. To preserve, protect, develop, and where possible, to restore or enhance, the resources of the State's coastal area for this and succeeding generations.
- b. To encourage and assist counties and municipalities wherever applicable to exercise effectively their responsibilities in the coastal area through the development and implementation of administration programs to achieve wise use of the land and water resources of the coastal area giving full consideration to needs for economic development, as well as to ecological, cultural, historic, and aesthetic values.
- c. To assure that in development of the state's coastal area adequate consideration is given to such uses of the coastal area as the establishment of harbor facilities for the receiving of oil, gas and other commodities from ships and tankers; pipelines from such ports; and utility plant sites, utility generation, transmission, distribution, and transportation facilities.
- d. To urge that all state agencies engaged in programs affecting the coastal area cooperate and participate with local governments and regional agencies in effectuating the purposes of this Act; and
- e. To encourage the participation of the public, of federal, state, and local governments and of regional agencies in the development of coastal area management programs. With respect to implementation of such management programs, it is the state policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooprative procedures and joint action particularly regarding environmental problems.

Act 534(§9-7 Code of Alabama) created a Coastal Area Board for the purposes of implementing the provision of the Act in accordance with legislative intent. This board consisted of the Director of the Office of State Planning, Director of Marine Resources Division of the Department of Conservation and Natural Resources; a member of the Mobile City Commission; member of the Mobile County Commission; State Geologist; Director, Marine Environmental Sciences Consortium; an official of a municipality of Baldwin County; the Chairman of the Coastal Area Advisory Committee and a member of the Baldwin County Commission. The code also established the coastal area boundary.

Based on the outcome of a series of public meetings in the coastal area, the Alabama Legislature established the boundary of the coastal area at the 10-foot contour (Figure I-1).

The Legislature also described particular elements that must be contained in Alabama's program. These elements include:

- a. Identification of all the state's coastal resources;
- b. Evaluation of these resources in terms of the quality, quantity, and capability for use both now and in the future:
- c. Determination of the present and potential uses and the present and potential conflicts in the uses of each coastal resource:
- d. Inventory and designation of areas of particular concern within the coastal area:
- e. Broad guidelines on priority of uses in particular areas:
- f. Provision for adequate consideration of the local, regional state and national interests involved in the siting of facilities for the development, generation, transmission and distribution of energy, adequate transportation facilities and other public also established the Coastal Management boundary.
- g. Provision for consideration of whether a proposed activity of an applicant for a federal license or permit complies with the state's coastal program and for the issuance of notice to any concerned federal agency as to whether the state concurs with or objects to the proposed activity.
- h. Adequate provision for public notice, public hearings, and the judicial review as provided for under Alabama law.
- i. The management program shall determine permissible land and water uses which have a direct and significant impact within the boundaries of the coastal area and must give due consideration to requirements for agriculture, industry, commerce, resource conservation, residential development,



recreation, extraction of mineral resources and fossil fuels, harvesting of timber and pulpwood, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources.

Act 82-612 of the 1982 special session of the State Legislature abolished the Coastal Area Board and created a more comprehensive structure for the implementation of the Alabama Coastal Area Management Program. This act amended 89-7 by transferring the permit regulatory and enforcement related functions of our Coastal Management Program to the Alabama Department of Environmental Management and all other functions to the Alabama Office of State Planning and Federal Programs.

#### B. Federal Law

Throughout the past century, pressures upon coastal resources of the entire nation have been intensifying at an ever increasing rate.

In a report to the President and the Congress, the National Advisory Committee on Oceans and Atmospheres states:

... The problems of the coastal zone now have too direct an impact upon too many people to be conveniently swept under the rug... The regulation of man's activities in the coastal zone involves balancing social, economic, political, and national security needs of great complexity, but balance them we must, lest the pressures on the coastal areas build to the bursting point.

In response to this growing awareness of stress on the nation's coastal resources, Congress passed the Coastal Zone Management Act. This act was signed into law by the President in 1972 (P.L. 92-583) and amended in 1976 (P.L. 94-370) to give it additional responsibilities. Congress declared it to be the national policy "to preserve, protect, develop, and where possible, to restore or enhance the resources of this nation's coastal zone for this and succeeding generations..."

Each coastal state has the responsibility to develop its own coastal management program on a voluntary basis. The Coastal Zone Management Act provides financial assistance to aid each state in the development and implementation of its program. These funds are provided on a matching basis — 20 percent by the state and 80 percent from the Federal Government. Alabama's planning process took four years, and the implementation phase followed. Alabama began planning its program in 1974, and implementation was begun in September 1979.

In addition to providing financial assistance to the development and implementation of state coastal management programs, the federal law also provides financial assistance to state and local governments through the Coastal Energy Impact Program (CEIP). Alabama received its first CEIP grant in 1976. Since that time the state and its local governments have received approximately \$4.0 million in grant and loan assistance.

#### SECTION III. Program Revision

To carry out the provisions and policies of \$9-7 as amended by Act 82-612, the legislature established the Alabama Department of Economic and Community Affairs, Office of State Planning and Federal Programs (OSP) as the agency responsible for all non-permit, non-regulatory and non-enforcement provisions of the Alabama Coastal Management Program. The Act further designates the Alabama Department of Environmental Management (DEM) as the Agency responsible for implementing the functions of the ACAMP which relate to permitting, regulatory, and enforcement. Act 82-612 establishes a Coastal Resources Advisory Committee to advise the DEM and OSP on all matters concerning the coastal area.

#### A. State Law

#### 1. Office of State Planning and Federal Programs

On September 8, 1982 the Governor designated the Office of State Planning and Federal Programs as the lead state agency for Alabama's Coastal Management Program. The OSP is primarily responsible for overall program implementation and coordination and will be directly responsible for all program activities which are not related to permitting, regulatory, or enforcement activities.

The Office of State Planning and Federal Programs was created within the Office of the Governor and directly under his supervision and control. A Chief Administrative Officer is appointed to serve as Director, and such person shall serve at the discretion of the Governor.

The powers and duties of the Office of State Planning and Federal Programs ( $\S41-9-200$  as amended), are varied and include but not limited to the following:

- o Develop coordinated long range comprehensive State plans and policies for the status growth
- o To encourage overall state agency program coordination
- o To assist the State and other entities in securing federal financial assistance
- o To review and comment on local areawide applications for federal assistance
- o To serve as an official liason for the State in respect to federal assistance programs.

#### 2. Alabama Environmental Management Act (82-612)

As previously stated, the AEMA provides for the transfer of the permitting and regulatory functions of the ACAMP to DEM (Section 9) and the transfer of the other functions to OSP (Section 10).

The AEMA (Section 6) creates a seven member Environmental Management Commission whose duties are:

- o To select a Director for the Department of Environmental Management and to advise the Director on environmental matters which are within the Department's scope of authority:
- o To establish, adopt, promulgate, modify, repeal, and suspend any rules, regulations or environmental standards for the Department which may be applicable to the State as a whole or any of its geographic parts;
- o To develop environmental policy for the State, and
- o To hear and determine appeals of administrative actions.

The Commission is made up as follows:

- o One member shall be a physician licensed to practice medicine in the State of Alabama and shall be familiar with environmental matters:
- o One member shall be a professional engineer registered in the State of Alabama and shall be familiar with environmental matters:
- One member shall be an attorney licensed to practice law in the State of Alabama and shall be familiar with environmental matters:
- o One member shall be a chemist possessing as a minimum a bachelor's degree from an accredited university or a veterinarian licensed to practice veterinary medicine in the State of Alabama and shall be familiar with environmental matters:
- o One member that has been certified by the National Water Well Association Certification Program:
- o One member shall be a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university and shall have training in environmental matters; and
- o One member shall be a resident of the State for at least two years but shall not be required to have any specialized experience.

This Commission snall select a Chairman from among its members and shall meet at least once every two months.

In addition, the AEMA (Section 13) establishes a Coastal Resources Advisory Committee to advise DEM and OSP on all matters concerning the Coastal Area. This section establishes the initial members of the Coastal Resources Advisory Committee as the former members of the Coastal Area Board who will initially serve for one year beginning October 1, 1982. At the end of the first year the members shall be as follows:

- o One member shall be a member of the Mobile City Commission and shall be selected by that Commission:
- o One member shall be a member of the Mobile County Commission and shall be selected by that Commission:
- o One member shall be a member of the Baldwin County Commission and shall be selected by that Commission:
- One member shall be an official of a municipal corporation in Baldwin County and shall be selected by the Baldwin County Mayors Association;
- o One member shall be the Commissioner of Conservation and Natural Resources, who may designate an employee of his department to represent him on the Commission:
- o One member shall be the State Geologist who may designate an employee of his agency to represent him on the Committee; and
- o One member shall be the Director of the Marine Environmental Sciences Consortium.

The term of each of these members of the Coastal Resources Advisory Committee shall be consistent with his elective or appointive office. Additional members of this Committee may be appointed by the Governor for terms not to exceed 4 years.

The Committee shall meet initially to select a Chairman and subsequent meetings shall be at the call of the Chairman of the Committee or the Director of the OSP.

#### B. Federal Law

Throughout the past century, pressures upon coastal resources of the entire nation have been intensifying at an ever increasing rate. In a report to the President and the Congress, the National Adivsory Committee on Oceans and Atmospheres states:

... The problems of the coastal zone now have too direct an impact upon too many people to be conveniently swept under the rug... The regulating of man's activities in the coastal zone involves balancing social, economic, political, and national security needs of great complexity, but balance them we must, lest the pressures on the coastal areas build to the bursting point.

In response to this growing awareness of stress on the nation's coastal resources, Congress passed the Coastal Zone Management Act. This act was signed into law by the President in 1972 (P.L. 92-583) and amended in 1976 (P.L. 94-370), as amended, to give it additional

responsibilities. Congress declared it to be the national policy "to preserve, protect, develop, and where possible, to restore or enhance the resources of this nation's coastal zone for this and succeeding generations..."

Each coastal state has the responsibility to develop its own coastal management program on a voluntary basis. The Coastal Zone Management Act provides financial assistance to aid each state develop and implement its program. These funds are provided on a matching basis — 20 percent by the state and 80 percent from the Federal Government. The planning process may take up to four years, and the implementation phase will follow. Alabama began planning its programs in 1974.

In addition to providing financial assistance to the development and implementation of state coastal management programs, the federal law also provides financial assistance to state and local governments through the Coastal Energy Impact Program (CEIP). This program provides bond and loan guarantees and grants to alleviate the impacts of coastal energy activities. These funds can be used to build public facilities necessary to mitigate the impacts caused by energy activities. For example, CEIP funds have been used to build hospitals, public water supplies, and recreational facilities.

#### SECTION IV. PROGRAM COMPLETION PROCESS

As the Alabama Coastal Management Program has completed an intensive review process as planned. Such a review process makes certain that the final program, and revisions thereto reflects the feelings and concerns of the people of Alabama and provides for a balanced approach to economic development and coastal resource protection.

The workshop's draft was distributed in August 1978, and a series of public hearings were held in September. The Workshop Draft presented a discussion of the issues of the Alabama Coastal Area, a statement of proposed ACAMP policies, a description of the uses subject to the management program, a description of the special management areas, and a discussion of the legal authorities.

Based on all written comments received and testimony presented at the hearings, appropriate changes were made in the Workshop Draft, and additional work elements were completed — management authority of the Coastal Area Board; review procedure for state permits, federal consistency, and uses that presently required no state or federal permit, operational rules and regulations; administrative rules and regulations; national interest, full participation and continuing consultation.

The Hearing Draft was prepared based upon revisions of the Workshop Draft and the additional elements outlined above. This

document, the second step in the review process, represented the first complete draft describing the proposed management program. Copies of this document were distributed in February 1979 for review by governmental agencies, organizations, and interested citizens, and a public hearing on the hearing Draft was held in March.

The third step in the process was the presentation of the Draft Environmental Impact Statement (DEIS). The DEIS included the management program which had been revised based on public comment on the Hearing Draft, the environmental impact assessment of the management program, and OCZM's findings about whether the Alabama management program meets the requirements for federal approval. The DEIS was distributed in late April and a public hearing was held in June to receive comments from persons interested in the Alabama Coastal Area Management Program.

After careful analysis of all comments, the Draft Environmental Impact Statement was revised to become the Final Environmental Impact Statement, the last step in the review process. Upon adoption by the Coastal Area Board and approval by the Governor, the Final Environmental Impact Statement was submitted to the Office of Coastal Zone Managment for final approval in August 1979. The program was approved on September 29, 1979.

The passage of Act 82-612 by the Alabama Legislature abolished the Coastal Area Board which had responsibility for the implementation of Alabama's Coastal Management Program, and transferred those responsibilities to the Office of State Planning and Federal Programs and the Department of Environmental Management. As a result the management program document is being revised to reflect the role of these two agencies in the programs implementation.

# PART II ALABAMA COASTAL AREA MANAGEMENT PROGRAM

#### CHAPTER TWO

#### COASTAL ISSUES

Coastal Alabama has plentiful natural and manmade resources. Because of these resources, the Coastal Area has experienced a high growth rate in recent years, which is expected to continue or perhaps increase in the years to come. Increasing competition for these finite resources by economics, social, recreational, and natural uses is evident.

A summary of some of the major coastal issues is presented below. No attempt has been made to describe all coastal issues; rather, the following narrative is a brief overview of the wide array of concerns which may face coastal residents.

#### SECTION I. COASTAL RESOURCE USE ISSUES

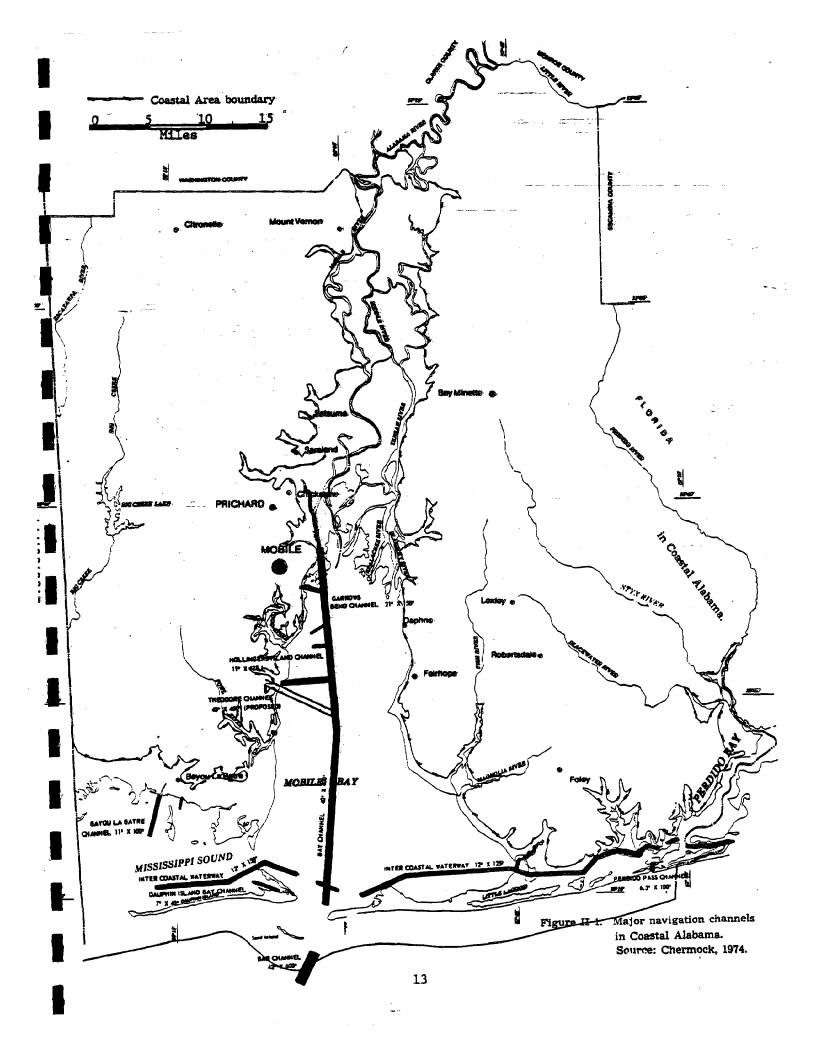
#### A. Port Development

The Port of Mobile plays a vital role in the health of the coastal economy. Besides the state docks employing approximately 800 individuals in 1982 with an annual payroll in excess of \$17 million, and operating with revenues exceeding \$52.8 million, and a net profit of \$16.4 million. Mobile's port facilities offer an impetus to industrial development by increasing access to national and international markets. The continuous upgrading and development of the port facilities will allow the port to continue to benefit the local and state economic system in the future.

In order to function properly, the port must maintain surface water transportation arteries in prime condition (Figure II-1). Existing maintenance dredging operations carried out by the Corps of Engineers produce large volumes (7 million cubic yard annual average, 1960-1970) of dredge spoil materials which must be disposed of in an environmentally suitable and cost-effective manner. This task has become increasingly difficult in recent years as existing spoil-disposal sites are reaching their capacity. In order to meet the needs for spoil disposal from maintenance dredging and ship channel expansion, it is imperative that a long-range plan of spoil disposal, based upon sound environmental and economic considerations, be developed and implemented.

#### B. Industrial Development

Industrial development provides many benefits to the community in terms of employment and support for the local economy. Manufacturing activities in coastal Alabama employed 34,648 in 1980, 26.1 per cent of the total work force. In addition to providing direct employment, manufacturing enterprises or basic industries support employment in other segments of the coastal economy. Several events are anticipated or have occurred which could provide for increased economic growth



within the area: 1) expanding chemical industrial base, 2) increased production of oil and natural gas, and 3) the development of the Tennessee-Tombigbee Waterway. A conservative estimate is that in the year 2000, 37,100 people will be employed in manufacturing, 20 per cent of the total work force.

Studies prepared by the South Alabama Regional Planning Commission in 1975 indicate that approximately 4,000 additional acres of industrial land will be required to satisfy the anticipated industrial requirements for the year 2000. A challenge faces the area in developing the region's industrial base in a manner which will not destroy the resources that are so vital to the overall character of the coastal Area. Industry can lower the utility of adjacent properties for certain uses, produce toxic substances which damage wildlife and human helath, and alter an area's aesthetic appeal. These unpleasant and periodically dangerous side effects deserve recognition and consideration in a management decision—making process.

Since heavy industrial activity can lower property values for residential and recreational uses, industrial activities should be located in designated industrial sites which can provide the necessary water, sewer and transportation access to support the industry. These sites should be chosen with due consideration to their impact on natural resources, water quality and other land uses. Industrial activities of a hazardous nature should be located away from population centers to avoid the possibility of a disaster.

Several types of industry such as port and coal-handling facilities require access to navigable water. Water-dependent industries of this nature should have priority over other industrial activities for water-front industrial sites.

One of the major problems facing future industrial devlopment in the Coastal Area is waste discharge. Several segmants of coastal waters, notably Lower Mobile River, Chicksaw Creek, Three Mile Creek and portions of Mobile Bay, are and have been stressed by waste discharges. Since these water bodies have a finite assimilative capacity, new and existing industry will need to use improved treatment processes in existing industrial areas.

#### C. <u>Urban Development</u>

Both Mobile and Baldwin counties are experiencing rapid population and consequently, urban growth. Baldwin County's overall population increased 32.1% during the period 1970-1980; Mobile County's growth was 14.8 per cent. A significant portion of this growth is occurring within the Coastal Area.

The schedule completion of Interstate 65 across the northern tier of the two counties in combination with the already completed Interstate 10 has the potential of opening up large tracts of land for residential and industrial development, some within the Coastal Area.

Water and sewer service and transportation access are important determinants of the spatial distribution and intensity of development. The Mobile Area Land Use Model (MALUM) identified a strong correlation between residential development and sewer service in Mobile County (R-.931) and water service in Baldwin County (R-.872). The extension of infrastructure to locations adjacent to wetlands or a flood prone area can provide an impetus to development which could alter or destroy these natural areas. Corridor selection and water and sewer extension decisions should consider environmental and land use ramifications which will result from extensions of the infrastructure.

#### D. Energy Development

Energy-related activity in the Mobile-Baldwin County area includes hydrocarbon exploration, appraisal, and production from wells; hydrocarbon refining, processing, transmission, and storage; electric generating plants; coal handling facilities; electric generating plants; coal handling facilities; major transmission lines and pipelines; infrastructure and other energy support facilities, the bulk of which is taking place in Mobile County.

The recent discovery of significant quantities of natural gas has sparked a boom in oil field activity in the coastal waters of the State, particularly lower Mobile Bay, the Mobile-Tensaw River Delta, and in the outer continental shelf adjacent to the State's coastal waters. Several lease sales in state waterbottoms and the Outer Continental Shelf have taken place. Exploration has been widespread and production plans are being permitted. One oil field service base has been established, and as the level of oil field activity increases, it is expected that more will be created.

The Alabama State Docks coal-handling facility has completed the second phase of an expansion effort that will triple its capacity. With the advent of the Tennessee-Tombigbee Waterway, it is anticipated that the Port of Mobile will become a major transhipment port of even greater nationwide importance.

Due to their heavy industrial nature, energy facilities such as electric generating plants, refineries, and oil/gas processing, treatment and storage facilities, can have serious ramifications for environmental processes and associated land uses if they are developed without extensive care and forethought. Construction of such facilities will likely have an impact on the environment, varying with the choice of site and the size of the area disturbed.

The development, handling, and processing of energy resources and the siting of new and existing energy-related facilities is now impacting the living and waterfront resources of the Coastal Area, and the economy of the Coastal Area, State, and nation. As the level of energy-related activity grows, its positive and negative impacts are expected to grow correspondingly.

#### E. Mining and Mineral Resources

Limited quantities of clay, sand, and gravel are mined from Alabama's coastal river-bottoms and stream cuts. Other than oyster shell mining, the sole permitted mining operation of this type in the coastal area is a sand and clay operation located on the western edge of the Mobile-Tensaw River Delta. Although heavy mineral sands are known to lie in offshore Alabama, the resource is not being exploited at this time.

Over 40 million cubic yards of oyster shell are available for mining from coastal water bottoms. The removal and washing of mined oyster shell disturbs bottom sediments and habitat.

#### F. Water Quality

The water quality management process in Alabama has been studied for a number of years under federal and state programs. Completed in May 1978, the Mobile 208 Areawide Waste Treatment Management Plan is the most recent and intensive analysis. This study analyzed point and nonpoint sources of pollution as well as various waste treatment management alternatives. The maintenance of water quality is one of the more complex and demanding tasks in the coastal area.

A primary focus of water quality management programs has been to devise ways to provide for swimmable and fishable waters. Although significant efforts have been undertaken to analyze the chemical and hydrological characteristics of water, a method of evaluating the long-term impacts of our waters has not been developed. Without a biological baseline analysis to show what is presently normal in the coastal system, it is difficult to evaluate progress in achieving the goal of maintaining water quality that will support existing biological processes. During the first two years in the 306 CZM program the Coastal Area Board developed a methodology for benthic sampling to determine the present levels of benthic organisms in coastal waters.

Thousands of chemical substances have been developed by man, but knowledge of the toxicity of these substances to plants and animals is limited. As the Environmental Protection Agency completes its research program and evaluates toxic substances, standards are expected to be adopted which can be applied to the discharge of these substances to coastal waters with more certainty that toxic substances are being properly regulated.

The Mobile 208 Study found several water segments that are currently under stress including portions of the Lower Mobile River, Cnickasaw Creek, Three Mile Creek and Mobile Bay.

Within the two coastal counties of Alabama there are 18 municipal waste water dischargers that discharge more than 53 million gallons per day (mgd) (Table II-1), 40 industrial dischargers with National Pollution Discharge elimination system permits that discharge about 130 mgd (Table II-2), 49 semi-public and private dischargers that

Table II-1 Existing municipal wastewater treatment plants

99		lverage	Receiving
Plant	Description	Flow	<u>Water</u>
Mobile County		(MGD)	) 
McDuffie Island/Mobile	Activated sludge Pure 0	28	Mobile Bay
Three_Mile Creek/Mobile	High rate trickling filter with chlorination	10	Three_Mile Creek
Bill Ziebach/Mobile	High rate trickling with chlorination	2	Mobile Bay
Grover Street/Prichard	High rate trickling filter with ehlorination	4.08	Three-Mile Creek
Eight Mile/Prichard	High rate trickling filter with chlorination	1.5	Eight-Mile Creek
Chickasaw	Two-cell lagoon (parallel)	•95	Chickasaw Creek
Saraland	Activated sludge	.5	Norton Creek
Dauphin Island	Trickling filter and chlorination	. 25	Aloe Bay
Bayou La Batre	Conventional activate sludge	ted .78	Mississippi Sound
Citronelle	One-cell lagoon	.2	Puppy Creek
Baldwin County		engage in America (n. 1815).	
Gulf Shores	Aerated lagoon and polishing pond	1.0	Intracoastal Waterway
Robertsdale	Rotated biological contractor	•5	Rock Stream
Eastside/Bay Minette	Primary clarification	on 1.0	Hollinger's Creek
Westside/Bay Minette	Two-cell lagoon	.225	Martin Branch
Loxley	Three-cell lagoon	.16	Corn Branch Creek
Foley Lagoon	Single-cell lagoon	.275	Wolf Creek
Fairhope	Extended aeration (to 1.2 MGD) activated sludge and chlorination	2.0	Mobile Bay
Spanish Fort	Three-cell lagoon	.067	Spanish Fort Branch
TOTAL		53.487	

Table II-2 Existing industrial wastewater treatment plants

Company	Present Treatment Process	Reported Process Wastewater Discharge (GPD)
Barber Pure Milk	Discharge to STP*	
SARS	Grease separator, aerat	ion 20,000
	basin, polishing pond	
Aquila Seafood  - Bon Secour	Screening	1,000
Plash's Seafood - Bon Secour	Screening	3,000
Grass Seafood	Screening	1,000
- Bon Secour Gulf Shrimp (Wallace)	Screening, aeration	10,000
- Bon Secour Oyster Bay Seafood	Screening	1,000
<ul><li>Bon Secour</li><li>Star Fish and Oyster</li></ul>	Screening	288,000
- mobile Gulf Coast Knight		- 1
Seafood	Screening	13,000
- Gulf Shores Bon Secour Fisheries	Screening	14,000
- Bon Secour	<b>6</b>	
Gulf Lumber Crown Zellerbach	Complete recycle Separation, flocculation	. O .
Crown Zellerbach	aeration, spray pond	10,000
Alabama Wood Treating	Separation, flocculation	•
	evaporation	,
International Paper	In-plant water reduction	n and
	reuse, cooling towers,	<del>-</del>
	primary clarification o	
	inorganic and organic s	
	solids, sludge dewatering organic settleable solice	
	burning as fuel in boils	
	steam and electrical po-	
	regeneration, emergency	
	pumping to NMIWTP, secon	
	waste treatment measure	ment
	sampling and release	33,200,000
Scott Paper	Primary and final	
	clarification, aeration	tanks,
	aeration basin, sludge	11 A 11 A A A A A
	dewatering	42,430,000
Stone Container	Screening, clarification	· -
	basins, spray irrigation	n 20,000

Table II-2 Existing industrial wastewater treatment plants (continued)

Stauffer Chemical - LeMoyne	Local neutralization, settling separation, Hg. removal; centraeration	al
Diamond Shamrock	Clarification, pressure filter holding basin	57,600
Barber Pure Milk	Discharge to STP#	
SARS	Grease separator, aeration	
	basin, polishing pond	20,000
Aquila Seafood	Screening	1
- Bon Secour		- 1,000
Plash's Seafood	Screening	
- Bon Secour		3,000
Grass Seafood	Screening	
- Bon Secour		1,000
Gulf Shrimp (Wallace)	Screening, aeration	10,000
- Bon Secour		• <u> </u>
Mallon Seafood	Screening	· : 500
- Dauphin Island		
Oyster Bay Seafood	Screening	1,000
- Bon Secour		
Star Fish and Oyster	Screening	288,000
→ Mobile	200 0000000	
Patronas Seafood	Screening	1.000
- Dauphin Island	201 00110110	
Causeway Seafood	Screening	1,000
- Causeway		
Gulf Coast Knight		
Seafood	Screening	13,000
- Gulf Shores		
Bon Secour Fisheries	Screening	14,000
- Bon Secour		•
Gulf Lumber	Complete Recycle	. 0
Crown Zellerbach	Separation, flocculation,	-
4. This state is a second	aeration, spray pond	10,000
Alabama Wood Treating	Separation, flocculation,	,
Wrasams Hade 1. grasse	evaporation	0
International Paper	In-plant water reduction and	•
Titagi iidazaiida faboi	reuse, cooling towers, separa	te
	primary clarification of inor	
	and organic settleable solids,	
	sludge dewatering of organic	•
	settleable solids and burning	
	as fuel in boilers for steam	
	and electrical power regeneration,	
	emergency clarifier, pumping to	
	NMIWTP, secondary waste treats	
	measurement sampling and	
-		3.200.000
		_,,

Table II-2 Existing industrial wastewater treatment plants (continued)

Scott Paper	Primary and final clarification	n.
· · · · · · · · · · · · · · · · · · ·	aeration tanks, aeration	•
	basin, sludge dewatering 42	,430,000
Stone Container	Screening, clarification,	
	settling basins, spray	
•	irrigation	20,000
Stauffer Chemical	Local neutralization, settling	
- LeMoyne	oil separation, Hg. removal;	
		,100,000
Diamond Shamrock	Clarification, pressure	,
	filter, holding basin	57,600
Halby	Chemical oxidation.	31,1000
1,4343	neutralization, pressure	
	filter	2,500
Union Carbide	Recycle, neutralization	2,000
Ulilon Carolice	settling. NH3 recovery	918,000
Bon Secour Seafood	Screening	NA:
- Bon Secour	Schedutuß	MAX
	Measurement and sampling,	•
American Cyanamid	piped to NMIWTP	60.000
•	secondary waste treatment	60,000
	•	
	measurement, sampling and release	
AT COA		
ALCOA	Oil separation, filtration,	
	clarification, settling basin	_
	water recycle from settling	. 0
estantista manistrat	basin	
Virginia Chemical	Grit chamber, equalization nut	rient
	addition, aeration, final	
•	clarification, polishing pond	
Fools Charles	sludge digestion	200,000
Eagle Chemical	Neutralization, holding	
do material dis	pond:	225,000
Courtaulds	Zn and H2SO4 recovery,	
		,800,000
·	aeration, clarification,	
	sludge thickening and	
Wadalan da	digestion	
Reichhold	Oil separation, equalization,	
·	flotation, neutralization	190,000
	aerated lagoon	
Degussa	Neutralization	371,000
Shell Chemical		
Pesticides	Oil separation, hydrolysis	
	neutralization, equalization,	
	lagoon; incineration	
Herbicides (proposed		
Stauffer Chemical	Deep well injection;	
- Cold Creek	neutralization, aeration	
	basin	400,000
Marion	Oil separation, flotation	45,300

Table II-2	Existing	industrial	wastewater	treatment	plants
(continued)					

Louisiana Land & Exploration Chevron Asphalt	Oil separation, aerated stabilization basin Oil separation	110,000 350,000
GAF	Discharges to WWTP	
Airco Alloys	Thickener, settling ponds	354,000
Kaiser Aluminum		
- Bay Minette	(No process discharge)	0
Kaiser Aluminum	•	
- Pinto Island	(Non-contaminated discharge)	
Teledyne	Discharges to WWTP	
Alabama Dry Docks	(No process discharge)	0
Frisco R.R.	Oil separation	325
I.C.G. Railroad	Oil separation, local sand tra	p
	(some flows go to WWTP)	11.500
Miller Transporters	Closed	
Alabama Power	Stream segregation and individ	ual
- Chickasaw	treatment, settling pond, and	pond
- Barry	evaporation	•
•	Stream segregation and individ	ual
	· ·	.000.000
Thompson-Hayward		4,100

# RAINFALL RUNOFF ONLY

Triangle Refineries - Choctaw Point - Blakely Island Hess Oil and Chemical Shell Oil	Oil separation	1122
Texaco American Gulf Oil AMSCO LaGloria Oil and Gas Murphy Oil	Oil separation	
M&T Chemical	Neutralization, primary clarification, biological treatment	200,000
* Secondary Treatment P	lant	
Union Carbide (2)	Oil Separation	20,000
Kerr-McGee	Sedimentation	200,000
Deep Sea Foods, Inc.	Separation	350,000
Carson & King Seafoods	Screening	160,000

N/A Not available

Source: South Alabama Regional Planning Commission, 1978.

discharge more than 3 mgd and other miscellaneous dischargers of sanitary wastes, cooling waters, boiler blowdown, rain and runoff (Table II-3). These point source dischargers are indicated in Figure II-2.

With the increase in activity from petroleum exploration by Mobil Oil Company off the coast of Dauphin Island, oil pollution is a significant concern. Because of the sensitive ecologic systems in the area, extreme care must be taken to make sure no harmful environmental impacts result from oil exploration, transmission or facility development.

Disposal of dredge spoils is another aspect of water quality to be considered. For example, constructing and maintaining the Mobile Ship Channel and Theodore complex Channel can result in modification of the bays and estuaries, thereby affecting natural circulation and salinity patterns within the Mobile Bay system.

Violations of water quality standards for total coliforms have been found in many coastal water segments, resulting in the closing to harvest of over 72.000 acres of water-bottoms. Since these areas were closed during the early 1950's, no current studies have been carried out to determine if these areas should still be closed to harvesting. The most significant contributor of pathogenic pollution in the coastal area is the Mobile metropolitan area which significantly impacts upper Mobile Bay. Periodic closings of other cyster reefs occur, and they are governed by the National Shellfish Sanitation Program, Manual of Operations, Part I.

Based on the results of the Mobile 208 Areawide Waste Treatment Management Plan, the principal water quality problems occur in the western portion of the Mobile Bay water frontage and all of the Mobile River system. The most frequent occurring violations are for dissolved oxygen and fecal coliform. Sampling results show that Three Mile Creek, Chickasaw Creek, Hollinger Creek, and Mobile River experience the most frequent dissolved oxygen violations.

Little data is available concerning the impact of existing thermal discharge. The Barry Steam Plant discharges 1,170 million gallons of cooling waters each day. The body temperature of most aquatic organisms is regulated by water temperature. If the temperature of the receiving waters is too high, aquatic organisms can be killed. Further, the passage of cooling waters through a plant entrains millions of planktonic eggs and larvae of fishes and invertebrates.

Pesticides which are washed into streams from agricultural operations and trace metals are of particular concern. They can be absorbed by living things and accumulate in the bodies of estuarine animals, affecting their health and reproduction capacity. They may be narmful to man if ingested.

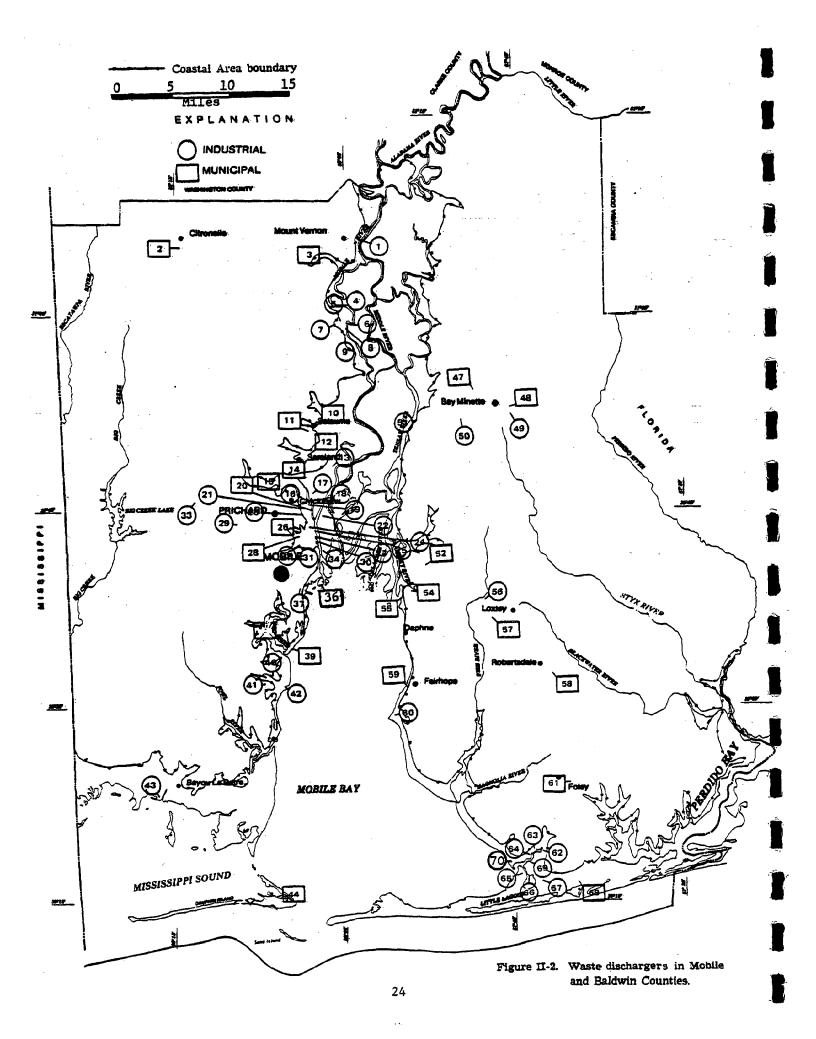
The use of septic tanks in many areas of coastal Alabama has resulted in water quality degradation. At Dauphin Island and Gulf

#### Municipal

- 2. Citronelle Lagoon
- 3. Searcy Hospital
- 10. Robert E. Lee Elementary School
- 11. Suburban Hospital
- 12. Saraland Wastewater Treatment Plant
- 14. Chickasaw Lagoon
- 15. Eight-Mile Wastewater Treatment Plant
- 20. Hog Bayou Wastewater
   Treatment Plant
- 26. Grover Street Wastewater Treatment Plant
- 28. Three-Mile Creek Wastewater Treatment Plant
- 36. McDuffie Island Wastewater
  Treatment Plant
- 38. Halls Mill Creek Wastewater
  Treatment Plant
- 39. Bill Ziebach Wastewater Treatment Plant
- 43. Bayou La Batre Wastewater
  Treatment Plant
- 44. Dauphin Island Wastewater
  Treatment Plant
- 48. Bay Minette Wastewater Treatment Plant
- 52. Spanish Fort Estates Lagoon
- 54. Lake Forest Subdivision Wastewater Treatment Plant
- 55. Lake Forest Development Wastewater Treatment Plant
- 57. Loxley Lagoon
- 58. Robertsdale Wastewater Treatment Plant
- 59. Fairhope Wastewater Treatment Plant
- 61. Foley Lagoon
- 68. Gulf Shores Lagoon

#### Industrial

- 1. Mt. Vernon Sawmill-Scott
  Paper Co.
- 4. Barry Steam Plant-Alabama Power
- 5. Virginia Chemicals, Inc.
- 6. Stauffer Chemical Co.
- 7. Argus Chemical Co.
- 8. Courtalds Lagoon
- 9. Shell Chemical Co.
- 13. Jacintoport Lagoon
- 16. Diamond Shamrock Chemical Co.
- 17. Chickasaw Steam Plant-Alabama Power Co.
- 18. Eagle Chemical Co.
- 19. International Paper Co.
- 21. Union Carbide Corp.
- 22. Scott Paper Co.
- 23. Thompson-Hayward Chemical Co.
- 24. Crown Zellerbach
- 25. Alabama State Docks
- 27. Star Fish & Oyster Co.
- 29. Mobil Rosin Oil Co.
- 30. St. Louis-San Francisco RR Co.
- 31. Illinois Central-Gulf RR Co.
- 32. Gulf Lumber Co.
- 33. Stone Container Corp.
- 34. Chevron Asphalt Co.
- 37. Teledyne
- 40. Marion Corp.
- 41. Autlan Manganese
- 42. Degussa Alabama, Inc.
- 47. Westside Lagoon
- 49. Reichhold Chemicals, Inc.
- 50. Alpine Laboratories
- 51. Tensaw Fertilizer Co.
- 56. SARS, Inc.
- 60. Grand Hotel
- 62. Bon Secour Fisheries
- 63. Wallace Seafood
- 64. Aquilla Seafood
- 65. Grass Seafood
- 66. Plash's Seafood
- 67. Oyster Bay Seafood
- 69. Gulf Coast White Knight Seafood
- 70. Bon Secour Seafood



Shores, <u>Salmonella</u> organisms, fecal coliform bacteria and high nutrient levels from septic tank systems have been isolated in waters used for swimming.

The 208 study determined that nonpoint source (NPS) pollution loadings can have a significant impact upon water quality. Because of their variable nature, the control of NPS is difficult. On the national and local levels, emphasis has been placed on the use of nonstructural control techniques such as street sweeping and improved erosion control practices at construction sites to address urban NPS. The Alabama Water Improvement Commission developed a 208 Water Quality Management Program for Baldwin and Mobile County which is now being implemented by the Soil and Water Conservation Committee.

There is no deliberate dumping of toxic or dangerous materials into Alabama's coastal waters, but the various chemical industries handle a variety of noxious and potentially hazardous substances. They are a very real problem when accidentally introduced into the marine environment.

# G. Air Quality

Although coastal Alabama's land-sea breeze pattern readily diffuses pollutants, repeated violations of both primary and secondary ambient air quality standards for total suspended particulates have occurred in Mobile County. Poor air quality may cause human illness, damage wildlife and vegetation and contribute to water pollution.

Industrial and commercial stack emissions in Mobile County contributed 11,825 tons of particulates and 84,107 tons of sulfur oxides during 1982. Three air quality monitoring stations in Mobile County recorded total suspended particulates less than 75 micrograms per cubic meter, the primary ambient air quality standard. The most frequent violations occurred at the station at the Alabama State Docks. Among cities in the Southeast, only Birmingham has recorded higher levels.

Automobiles comprise the largest source of hydrocarbon particulate emissions, accounting for 10.2 tons per day. However, compared to most regions with a city as large as Mobile, these levels are relatively low.

For the most part, air quality is usually good in western Mobile County and in all of Baldwin County. But if certain weather conditions prevail, odor problems from the industrial sections of eastern Mobile County do affect these other areas.

Based on National Ambient Air Quality Standards, portions of eastern Mobile County have been identified as being Areas of Primary Nonattainment and Secondary Nonattainment for Particulates. The entire county has been designated as a Primary Nonattainment Area for Photochemical Oxidants. Even though air pollution limits in portions of the two county area are now being exceeded, new industries and residents are continuously moving into coastal Alabama. Efforts are being made continuously to improve air quality.

## H. Solid Waste

The rapid expansion of industry and population which Mobile and Baldwin Counties presently enjoy is expected to increase in the years to come. Unprecedented needs for solid-waste disposal sites are expected to arise as volumes of solid waste are projected to increase 65 per cent by 1990. To preserve water, air, and visual quality and property value, solid-waste disposal should be accomplished in an environmentally acceptable manner.

Seventy known solid-waste disposal sites have been operating without authorization in the two-county area. These unauthorized sites, though seemingly of minor importance, have a significant cumulative impact on the coastal lands and waters. Disposal is usually not covered by soil, is in a flood-prone area or one with no stream runoff control, usually has no pest control, and is often accompanied by open burning (South Alabama Regional Planning Commission, 1977).

A number of sites within Mobile and Baldwin Counties are authorized and/or operating as municipal and county solid waste disposal sites -- Mobile County Citronelle-Mt. Vernon Landfill; City of Citronelle Disposal Site, City of Mobile Landfill (Chastang); City of Saraland Landfill, Mobile County Kusha Landfill, City of Chickasaw Dump; Mobile County Dawes Landfill; Mobile County Irvington Landfill; Baldwin County Bay Minette Landfill (Red Hills): Fairhope Landfill: Baldwin County Magnolia Landfill: Mobile Hickory Street Landfill: City of Prichard: and Mobile County Chunchula Landfill. Because water quality can be easily impaired, site selection and construction should be dependent on factors such as soil properties and their ability to assimilate wastes or prevent migration of toxic wastes into ground water, depth to water table, surface drainage, susceptibility to flooding, and concentration of other wastes being assimilated in the adjacent soil column. Open burning, malodors, and visual quality are a problem near open dumps.

#### I. Recreation

The Coastal area of Alabama offers a wide variety of recreational opportunities to residents and tourists. Most recreational opportunities are centered around the area's water resources and, therefore, can be affected seriously by water pollution. Thousands are attracted to Alabama's beaches each year. As recreational opportunities increase, pressures also increase on the natural resources that originally attracted the activity. Too much foot traffic in natural areas (wetlands, dunes, bogs) can destroy the integrity of the area. Incompatible uses located next to a recreational area may make the area unfit for recreation.

Because more people are purchasing boats, there is an increasing demand for docks, harbors, and marinas. More than 29,236 boats were registered in Alabama's coastal waters during fiscal year 1982. There appear to be several areas with inadequate boat storage facilities and launching areas, particularly between Dog River and Dauphin Island.

One study of recreational fishing in the Coastal Area found that sport fishermen spent \$5 million to catch 8 million pounds of fish in 1975 (Swingle, 1977).

Commercial recreational facilities are concentrated at Gulf Shores, on Dauphin Island, and along the margins of the Mobile-Tensaw River Delta (Figure II-3). In some cases, these facilities have harmed the coastal resources by improper waste disposal, construction methods that destroy the beach and dune systems, and overuse of the resources. However, since the approval of Alabama's Coastal Management Program in 1979, efforts have been undertaken to curb the abuse and destruction of these resources. These efforts included on site inspection of proposed development sites to assure compliance with the management program, dune setback requirments, patrol of and posting dune protection signs, monitoring water and sewer discharges points for water quality, a wetlands preservation program, and others.

Although difficult to project, the actual demand for specific types of recreational facilities in the Coastal Area will surely increase. For the Statewide Comprehensive Outdoor Recreation Plan (SCORP), Alabama was divided into several planning districts. The entire Coastal Area is contained within District 8 which includes three counties in the southwest corner of the State—Mobile, Baldwin, and Escambia. Although the projections presented in Table II-4 are applicable to the entire planning district, this information has been provided to give the reader a general understanding of the projected trend for outdoor recreational needs for the Coastal Area as well.

A total of 10,970.1 acres of shorefront publicly owned or maintained recreation areas are available for access in the two counties. Public access in Baldwin County is provided by 9,255.1 acres of state, county, and municipal parks, boat ramps, and other properties. About 1,715 acres of publicly owned or maintained land provide access in Mobile County.

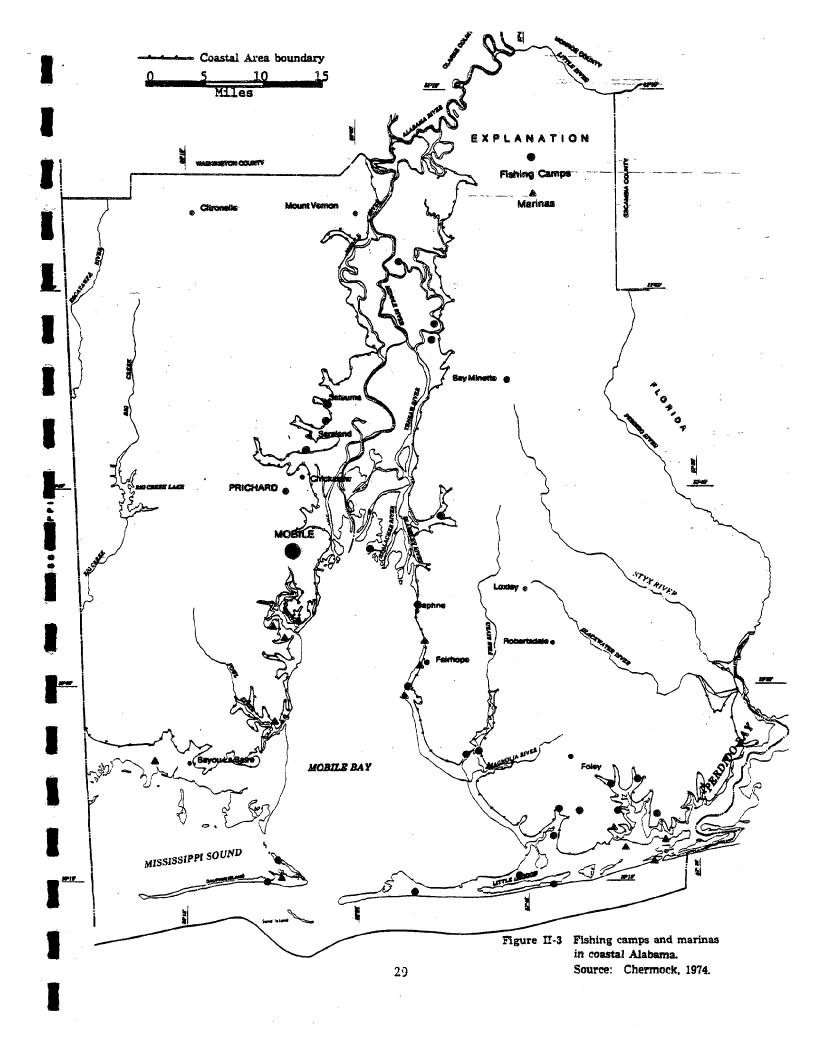
Access to coastal recreational opportunities is further provided by numerous fish camps, privately operated boat ramps and marinas. These privately owned operations supplement the available public facilities and often provide access to areas were no public facilities are available. The Coastal Energy Impact Program has assisted in making extensive improvements in access to coastal recreation sites. Since the program began 10 projects have been funded which improved public access.

Efforts have been made to increase access to South Mobile County, where there presently exists an unfulfilled demand for beach access, boat launching, dockage and storage. There have been efforts in the State Legislature to appropriate funds to purchase a large, uninhabited portion of western Dauphin Island, although these efforts have failed thus far. This area had been leased by Mobile County from a private concern for the past decade. However, the lease has now expired, and the owners wish to sell the land. If puchased by the State, approximately eight additional miles of shoreline would be available for public use. In addition, a number of boat ramps are

Table II-4 Outdoor recreational land and facility needs by kind, district 8, 1973-74, 1980, 2000

		Ne	eds by yea	rs
Activities	Units	1973-74	1980	2000
			Number	
Land, local governments	Acres	3,115	4,027	5,661
Land, State Parks	Acres	+1,473	+789	436
Land, other agencies	Acres	8,836	11.344	15,837
Playgrounds	Acres	22	79	1,081
Archery	Positions	+31	+24	127
Tennis	Courts	70	125	332
Baseball (90' & 75' bases)	Diamonds	40	65	105
Softball	Diamonds	+106	+89	+24
Easketball	Courts	49	123	295
Volleyball	Courts	22	40	73
Track & field	Fields	+9	+4	8
Picnicking	Tables	2,450	2,441	3,022
Roads for driving	Miles	134	158	221
Walking, pleasure	Miles	51	67	96
Pool swimming	Sq. Ft.	44,505	78,105	128,505
Pond or lake swimming	Acres	83	93	110
Vacation camping	Campsites	483	863	1,852
Group camping	Beds	510	788	1,121
Hunting land	Acres	+34,982	224,518	485,518
Fishing waters	Acres	+465,256	+425,952	+206,086
Bicycling (n/o trails)	Miles	494	559	661
Horseback riding trails	Miles	+18	_	59
Natural and scenic	Sites	13	27	55
Golf, 18-hole	Courses	-	3	20
Golf, 9-hole	Courses		1	11
Firearm shooting	Ranges	+22	+20	+10
Transient camping	Sites	+505	+254	359
Boat launching	Ranges	53	84	239
Access parking	Spaces	5,532	7,082	14,832

Source: Auburn Agricultural Experiment Station, 1975.



planned for construction on the eastern end of Daupnin Island. These additional boat ramps will help to fulfill the demand for access to coastal waters.

Future efforts should be aimed at providing adequate recreational opportunities and beach access, while protecting the integrity of the coastal resources and rights of private property owners.

# J. Shoreline Erosion

Recent studies have shown that portions of Alabama's coastal shoreline are eroding. Of 503.9 miles of estuarine and Gulf shoreline, 220.9 miles are eroding. Natural erosion is caused by waves, currents and wind, and there is often little that can be done to offset its effects.

More than 90 per cent of Alabama's Gulf shoreline is eroding, and 33 per cent of the bay-estuary shoreline is eroding. The western half of Dauphin Island experiences the most erosion each year. A very large portion of this area is presently undeveloped, and there have been recent efforts to purchase this portion of the island for use as a public beach. Other affected areas are Perdido Pass, Little Point Clear, the shoreline of St. Andrews Bay, the southeastern limits of the Mobile-Tensaw River Delta, and the islands and northern shore of Mississippi Sound.

Projection and compatible uses of the shoreline continue to be a priority project in Alabama. Continued development of extensive condominiums, summer homes, resorts and highways along the shoreline will undoubtedly lead to further modification of the shoreline and increase the rate of erosion. Sand extraction from dunes contributes to the depletion of the dune system. Construction in wetland areas aggravates erosion by destroying their natural water-storage capacity and storm buffer functions. Efforts are continually being undertaken to minimize erosion and assure that coastal users are compatable with Alabama's coastal resources.

#### K. Hazard Management

As development in the Alabama Coastal Area continues, the potential loss from natural disasters from this area's two most significant natural hazards, hurricanes and flooding, grows correspondingly.

The destructive force of nurricane wind is generally accompanied by heavy rainfall, storm surge and wave attack. The combination of these forces can devastate a Coastal Area. Nineteen nurricanes have affected Alabama since 1900 with six of these inflicting serious damage to the Coastal Area. However, there has been only one major landfall since 1960. This was Hurricane Frederic which devastated the Gulf Shores Dauphin Island area.

Flooding is a result of storm surges and heavy rainfalls associated with hurricanes and other tropical storms, convective thunderstorm activity, and frontal passages. Most of the Alabama Coastal Area is subject to flooding, with base elevation of the 100 year flood (the common name for a flood which has a one per cent chance of occurring annually) range from 7 feet above mean sea level at upper Perdido Bay to 13 feet above mean sea level at Mississippi Sound, with base elevation at Mobile Bay of 11 feet above mean sea level (Figure II-4).

The site selection process for new development in hurricane-prone areas should consider the potential for damage from storm surge, flooding, wave attack, and winds. Building design should incorporate methods to minimize the potential for damage by flood waters and include plans for flood-proofing and other means to reduce flood damage. Baldwin County recently enacted building codes to cope/with hurricane force winds and storm conditions. This task was accomplished through the use of CZM 306 funds.

Public awareness of building design and location alternatives to mitigate damage from natural hazards needs to be strengthened. Preservation and restoration of natural protective barriers and natural walkways, the elimination of unnecessary alteration, and wise location and design could reduce the potential for property damage and loss of life in the Coastal Area.

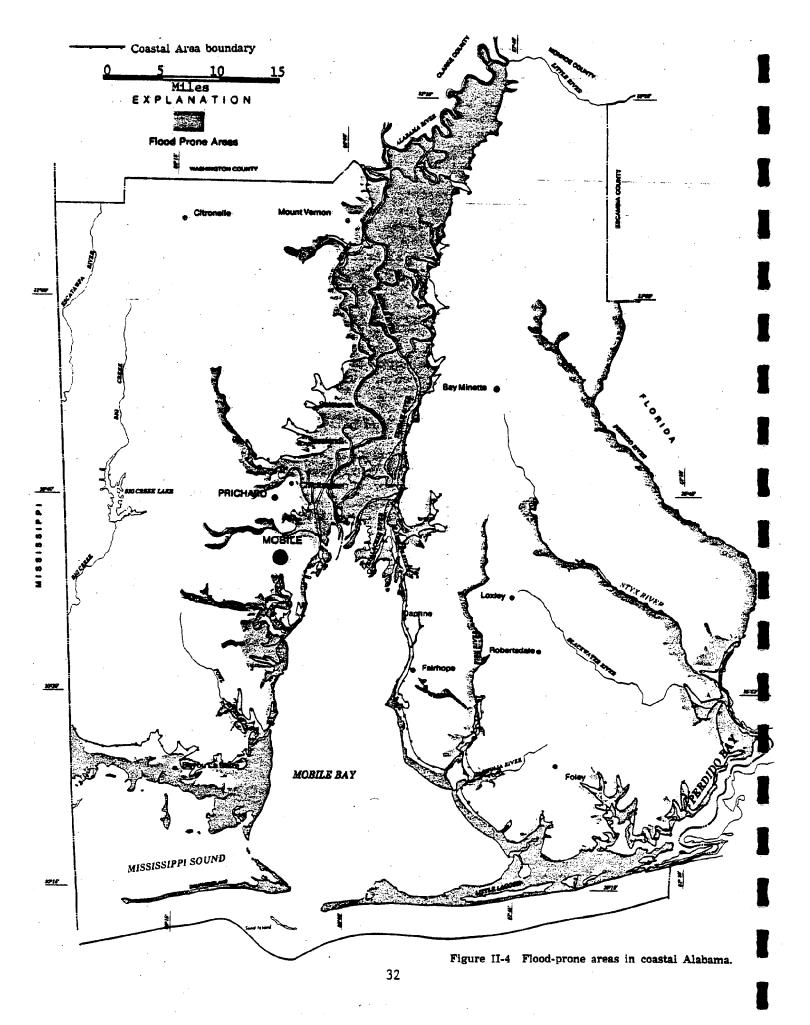
#### L. Commercial Fishing

Alabama's fishing industry, one of the most important natural assets of the State, is the major economic factor in several mobile and Baldwin County communities.

From 1950 to 1981, the dollar amount of Alabama's commercial marine fishery increased from \$2.1 million to \$44 million at the dock. The final economic value of the marine fishery was estimated at \$132 million in 1981, Poundage landed more than tripled over this same period. In addition, over 4,500 persons in coastal Alabama depend on the State's commercial fisheries for all or part of their personal income.

Shrimping is by far the major commercial fishery, accounting for almost 91 per cent of the retail value of all commercial fishing in the State. The abundance of shrimp is dependent upon many factors, but one of the most significant is the presence of extensive wetland areas for nursery grounds and food. It is estimated that 95 per cent of all commercial species in the Gulf of Mexico spend at least a portion of their life cycle in the estuaries. Any development that leads to the destruction of the wetlands is in direct conflict with the potential yield of the seafood narvest.

Physical alteration of the estuarine environment, as well as river discharge, can affect certain species of marine organixms. Dredge spoil disposal from channel construction and maintenance influences the circulation pattern of Mobile Bay. Circulation



patterns, in turn, can alter the salinity patterns within the bay, which are particularly important to oyster growth.

The quality of coastal waters has a great impact on commercial fishing species. Bacterial pollution may cause several species, particularly systems, to be unsafe for human consumption. Heavy metals and toxic chemicals discharged by industries may be concentrated in fish tissue. In the past, there have been bans on fishing in the Mobile Delta area due to high levels of mercury found in samples of fish tissue.

There are certain cultural aspects of commercial fishing which must be considered beyond the obvious dollar value and employment factors. Commercial fishing has traditional, social and aesthetic qualities that cannot be ignored.

# SECTION II. NATURAL RESOURCE ISSUES

#### A. Beaches

Beaches are those shoreline areas characterized by low-relief, generally of gentle slope, sand and some vegetation. Gulf beaches are those sand beaches of the mainland and islands in Alabama which are subjected to the direct wave action of the Gulf of Mexico waters. Estuarine beaches are narrow, low energy beaches occurring along the protected margins of Mobile Bay, Perdido Bay, Mississippi Sound, and their various tributaries. The entire beach community covers approximately 14,000 acres in the two counties.

By their nature, beaches are a major attraction for tourism and recreation in all Coastal Areas. In Alabama, natural beaches are limited, and increased private acquisition of access routes has further reduced publicly available beach areas. Dauphin Island, for example, presently has only one-half mile of beach available for the estimated thousands of beachgoers visiting the island during the peak season. The closing of the island's west end to public use has made public access to beaches an issue in Mobile County. As population grows, the problem of beach access grows correspondingly unless additional beaches become accessible to the public.

The loss of beach reduces the amount of buffer protecting inland areas from the forces of storms. The dynamic status of beaches requires that development plans consider the erosion potential of a specific location. Development should not significantly alter the sediment supply process. Alterations could include interruptions in longshore currents, removal of sediments, isolating the beach from the dunes by bulkheading or other structures, and removal or destruction of stabilizing vegetation. Proper placement of permanent structures can reduce the problems resulting from beach erosion.

Beaches provide permanent habitat to several species, some endangered, including several terms, raccooms, and beach mice. Beaches are principal nesting sites for numerous birds, such as the least term, osprey, and snowy plover, and some turtles. Intensive use

by man eliminates beach areas from continued utilization by these wildlife species and hence reduces their survival potential. In view of these losses the state Coastal Management Agency has initiated a beach and dune setback (40 feet of the primary dune line) program which should minimize the extent of loss.

#### B. Dunes

Dunes are ridges of unconsolidated and usually mobile sands lying landward of the upper limit of Gulf beaches and serve a protective function against the damaging forces of coastal storms and hurricanes.

The interaction between dunes and beaches deserves recognition and preservation. Coastal dunes are inhabited by many of the same species of wildlife which inhabit beaches and serve as a protective function against the damaging force of coastal storms and nurricances.

Typically, dune formation is a result of the accumulation of wind and water transported sediments carried across the beach. During periods of normal Gulf wind and wave conditions, sand is blown from the beach, accumulates, and is stabilized by vegetation in the form of dunes. Storms, however, will attack beaches and dunes cutting into both severely. It is in this role that dunes protect the coastal environment. Dunes provide a natural barrier to wave attack and also supply sediments to restore the beach. Dunes need to be preserved to maintain their protective function. Stabilizing dune vegetation requires protection from construction pressures and heavy traffic to prevent blowouts, migration, or destruction. Barriers to sand movement between beaches and dunes such as bulkheads should be excluded. Loss of dunes, regardless of cause, leaves a site and any structures upon it open to eventual destruction.

# C. Wetlands and Submersed Grassbeds

Wetlands are those areas saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation, typically adapted for life in saturated soil conditions. Approximately 183,000 acres of wetlands exist in Alabama's Coastal Area today.

Historically, wetland areas have been regarded as land of low economic value. This attitude has fostered the destruction of undetermined acres of wetlands by draining, filling, and impounding. Many piecemeal dredge, fill and impoundment projects are occurring today in the Coastal Area. The total number of wetland acres in coastal Alabama is low, the value of each acre is high, and total acreage is being reduced annually, whether by a few large projects or a number of small operations.

This destruction of wetlands has many impacts. Total nabitat for the many plant, animal, and fish species who live in the wetlands is reduced. Available nutrient supplies for many estuarine and coastal species is reduced, and since wetland species are important components of the food web, a breakdown in natural food web can be expected.

In addition to biologic effects of wetland dredge, fill, and impoundment, these former wetland areas are usually unsuitable for development use. Surface subsidence, foundation settling, and susceptibility to flooding are problems affecting the developer and occupant.

Wetlands also serve a role in shoreline protection. The root mass holds sediments together, and the vegetation itself absorbs wave energy and traps sediment. Destruction of this erosion retarding surface exposes the nearby land surface to higher erosion potential.

Submersed grassbeds are those areas within the Coastal Area which support rooted vegetation that are not normally emergent even at low tide but remain covered within coastal waters. Baldwin (1957) estimated that approximately 5,000 acres of submersed plants existed in Mobile Bay at that time. Today, the extent of submersed grassbeds is not known. Evidence of submersed grassbeds in the northern portion of Mississippi Sound have been found. The extent of submersed grassbeds in Perdido Bay and Little Lagoon is not known.

It is believed that submersed grassbeds play a valuable role in the coastal ecosystem, especially to fisheries productivity; more work is necessary to determine this role and their extent. Planning efforts should recognize the value of submersed grassbeds and account for their presence.

Concern has been expressed about the abundance and rapid growth of certain aquatic weeds in Alabama's coastal waters. Portions of the Upper Mobile Bay and Lower Mobile-Tensaw Delta have been choked by heavy aquatic vegetative growth, identified as Eurasian Water Milfoil. Hydrilla, which has caused serious problems in many water bodies in the southeastern United States, has been found and treated by the Corps of Engineers in Coffeeville Reservoir on the Tombbigbee River northwest of Jackson. If this Hydrilla reaches the Coastal Area, serious problems can be expected. Further study of these problems will be necessary to determine the possible adverse impacts of these aquatic weeds on the Coastal Area.

#### D. Oyster Reefs

Natural public oyster reefs in Mobile Bay and Mississippi Sound cover about 3,064 acres. Varying in size, these reefs are concentrated mostly in the southern half of Mobile Bay. Approximately 1050 acres of riparian bottoms are being used to grow oysters by private individuals. Most of those remaining public oyster reefs have a density of harvestable oysters which is too low to allow economic recovery.

The commercial oyster fishery in 1981 contributed \$8.2 million dockside to the Alabama economy. At least 200 coastal residents depended upon the oyster fishery for a portion of their livelihood.

Optimum populations of oysters are difficult to maintain even under natural conditions. Because they are attached, oysters cannot

move to new areas to escape harmful impacts. Therefore, they are affected by all conditions that alter their environment.

The salinity of the waters surrounding oyster reefs has a great effect on their morality. If the salinity is too low, usually caused by excessive rainfall and flood waters, the result is high oyster mortality. Yet, if not enough fresh water is introduced into the estuaries and the salinity increases too much, there is an abundance of cyster drills. The cyster drill is by far the most serious cyster predator in the State's waters. At various times, live cyster reefs have been almost totally wiped out because of extreme variations in salinity.

Dredging in areas near natural oyster reefs can cause serious problems. Disposal of dredge spoils from channel construction or maintenance atop live oyster reefs can completely destroy the reef. Because of their location near natural oyster reefs, extreme care should be exercised when conducting maintenance dredging in the Mobile Ship Channel or the Intra-coastal Waterway.

The water quality of bays and estuaries can affect oysters. Coliform bacteria from improperly treated municipal and industrial discharges does not affect the growth and development of oysters. However, these bacteria are indicators that pathogns may be present. The pathogens are concentrated in oysters, creating a human health problem. Hepatitis and typhoid could result from eating contaminated, uncooked oysters.

Following a survey of wastewater dischargers, at least 72,000 acres of water bottoms in northern Mobile Bay were closed to harvesting due to coliform bacteria levels higher than 70 most probable number per 100 milliliters. Since this closure in the 1950's, no further studies have been conducted to determine if this area should remain closed to shellfish harvesting. With the many recent improvements that have been made to municipal and industrial waste treatment facilities, it is possible that this area may no longer need to be closed to shellfish harvesting. The closure of these waters have declined considerably since the initiation of the 306 program. No waters were closed in 1981.

Periodically, oyster reefs in the southern portion of Mobile Bay near Dauphin Island have been closed temporarily to shellfish harvesting because of high coliform counts.

#### E. Wildlife

Due to the diversity of habitat available, the Coastal Area of Alabama supports one of the largest varieties of wildlife of any region of the State. Types of habitat available in the Coastal Area include beaches, salt marsh, brackish-freshwater marsh, swamps, mudflats, estuarine waters, open waters, and open ocean waters.

Studies of coastal fishes in Alabama indicate that about 293 species occur in coastal waters. Many of these species are valuable

commercially while many other species are vital links in the food chain. Most species are dependent upon the coastal marshes, submerged grassbeds and estuarine waters for nursery areas before moving into deeper water at maturity.

Only a small number of species of mammals, mostly dolpnins and whales, are associated with marine or brackish environments in Alabama. Terrestrial to semiaquatic species include rabbits, squirrels, raccoons, otters, minks, nutria, and muskrats.

There are about 132 avian species associated with Alabama's saline and brackish areas. Of the 33 species having breeding populations in the Coastal Area, a breeding habitat ranging from bare sand beaches to dead tree trunks is a crucial and limited resource without which populations of these species may decline to the point of extinction. Undisturbed resting and feeding space is necessary to support the remainder of the species as wintering or migrant populations.

Turtles, snakes and alligators are the predominant reptiles of the Coastal Area. Five species of sea turtles have been identified in Alabama waters. Although frequently reported in the past, turtle nesting on Alabama beaches is now a rare occurrence due to the greatly increased human activity in these areas.

Many species of invertebrates occur in the Alabama Coastal Area. Other than the species of commercial importance such as the shrimp and oyster, knowledge of the vast assemblage of invertebrate species associated with Alabama's coastal waters and wetlands is limited. At least 15 species of foraminifera have been identified. These animals play an important role in the food chain.

Only 15 species of copepods have been identified from Mississippi Sound and 6 from Mobile Bay and the adjacent Gulf of Mexico. Important as early consumers in the food chain, additional data on copepods and other microcrustaceans and their role is needed.

Probably the most common decapods are shrimp and blue crabs. However, many other species are vital because of their role as food sources for fishes, birds, and mammals.

At least 78 species of mollusks are common in the Alabama Coastal Area incuding oysters, squids, clams, and conchs.

Limited extent and uniqueness of some habitats, coupled with destructive activities, has resulted in a number of rare and endangered species of plants and animals occurring in this area. Many of these species are designated under the Federal Endangered Species Act of 1973. According to the Steering Committee on Endangered and Threatened Species in Alabama, an approximate inventory of species designated by the State of Alabama as Endangered, Threatened, or Species of Special Concern includes 30 species of plants, 9 fish, 21 species of reptiles and amphibians, 22 species of birds, and 9 species of mammals. Included are species which may not be permanent residents

but are dependent in part upon coastal habitats. Table II-5 summarizes the current status of these species. Table II-6 includes a listing of endangered or threatened species which may be found in coastal Alabama that are under federal jurisdiction.

Perhaps, the most important issue concerning endangered species is their critical nabitat requirement. Plants and animals are influenced to a great extent by the condition of their habitat. If their habitat is diminished or degraded, these animals may not be able to adapt, and they may become extinct. However, it must be recognized that certain actions which are not detrimental to critical habitat still may reduce the number or distribution of the species in question. Development pressure and the lack of site specific knowledge concerning the endangered species in the Coastal Area can threaten the delicate position of some of the endangered species.

The myriad communities of living organisms in estuarine and coastal systems are interrelated through a series of dependencies. The term "food web" best describes the complexity of systems where producers (plants) and lower organisms are usually fed upon by several animals.

If energy was passed along a single pathway from one trophic (energy) level to the next higher, cause and effect relationships and thus management of the living resources would be a simple matter. Primary production by wetland and submersed vegetation could be related directly to the production of commercial species. However, no animals of significant food or commercial value to man, except muskrats, nutrias, and some waterfowl, feed directly upon the vegetation within the system.

Plants occurring throughout the estuarine system comprise the base of the food web, converting energy from the sun into tissue available as an energy source to the other components of the food web. Plant productivity is available from marshes, swamps, submersed vegetation, algae, and phytoplankton in the water.

Only 10 percent or less of plant tissue produced is consumed by herbivorous animals, usually small insects, muskrats, nutrias, and ducks. The remainder is available through death, fragmentation, and decay as detritus. The creatures involved in the detritus-based food web are greater in numbers and vastly greater in biomass than those involved in direct consumption of the vegetation. Figure II-5 is a diagrammatic presentation of a generalized estuarine or coastal food web.

The structure of the food web varies greatly from season to season. In winter, most reproduction ceases and only a few aquatic invertebrates continue to breed. Many cold-blooded animals such as blue crabs cease feeding. Plant productivity is reduced during the colder months. However, warmer temperatures are accompanied by increased plant growth and animal activity, migration of birds and aquatic species into the Coastal Areas, and increased food demands of, and subsequent predation on, larval and juvenile forms.

Endangered and threatened species in coastal Alabama as designated by the State of Alabama Table II-5

		The second secon	
Common Name	Scientific Name	Status	Habitat
Fish:	-		1 11
Alabama shad	Alosa alabama	Undetermined	B,C,D, (R)*
Blue sucker	Cycleptus elongatus	Threatened	* (%) a
Pygmy killifish	Leptolucania ommata	Special Concern	E (R) *
Least killifish	Heterandia formosa	Undetermined	E (R) *
Bluespotted sunfish	Enneacanthus gloriosus	Undetermined	*8
Atlantic sturgeon	Acipenser oxyrhynchus	Threatened	C,D*
Shovelnose sturgeon	Scaphirhynchus platorynchus	Endangered	E,E*
Crystal darter	Anmocrypta asprella	Threatened	D, E*
Freckled darter	Percina lenticula	Threatened	D, E*
Amphiblans & Reptiles:			
Gulf saltmarsh water snake	Natrix fasciata clarkii	Undetermined	C,D*
American alligator	Alligator mississippiensis	Threstened	*A**
Flatwoods salamander	Ambystoma cingulatum	Endangered	*
Dusky gopher frog	Rana areolata sevosa	Threstened	in a
River frog	Rana hecksheri	Special Concern	ະ ດ <b>ໍ</b> ວ
Florida softshell turtle	Trionyx ferox	Special Concern	, H *
Florida green water snake	Natrix cyclopion floridana	Special Concern	<b>*</b> 2
Pinewood snake	Rhadinaea lavilata	Special Concern	* 11
Copher tortoise	Gopherus polyphemus	Threatened	*
Rainbow snake	Farancia erytrograma	Undetermined	<u>థ</u> - చ
Black pine snake	Pituophis melanoleucus lodingi	Endangered	C,D, E *
Alabama red-bellied turtle	Pseudemys alabamensis	Threatened	ă
Mississippi diamondback terrapin	Malaclemys terrapin pileata	Undetermined	ပ
Three-toes amphiuma	Amphiuma tridactylum	Undetermined	್. ಶ *
Eastern Indigo Snake	Drymarchon corais couperi	Endangered	益
Atlantic loggerhead turtle	Caretta caretta	Endangered	A(R), B(R)(B)*
Green sea turtle	Chelonia mydas	Endangered	A, C(R) *
Atlantic hawskbill turtle	Eretmochelys imbricata imbricata	Endangered	A(R)*
Atlantic ridley	Lepidochelys kempi	Endangered	A, C(R)*
Leatherback sea turtle	Dermochelys corfaces	Threatened	A(R) *
Greater stren	Siren lacertina	Special Concern	* *

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Common Name	Scientific Name	Status	Habitat
			Mar.
Birds:			
Brown pelican	Pelecanus occidentalis	Endangered	A(C), B(C), C(U) *
Great white heron	Ardea occidentalis	Undetermined	E(R), C(R) *
Reddish egret	Dichromanassa refescens	Threatened	A(M), B(C)*
Mottled duck	Anas fulvigula	Threatened	B(R,B),C(R),D(R)*
Swallow-tailed kite	Elanoides forficatus	Special Concern	B(R), C(R), D(R)
Sharp-shinned hawk	Accipiter striatus velox	Special Concern	B(U), C(R), D(R), E(R) *
Cooper's hawk	Accipiter cooperii	Special Concern	B(R), C(R), D(R), E(R) *
Golden eagle	Aquila chrysaetus canadensis	Endangered	E(R)*
Bald eagle	Halfaeetus leucocephalus	Endangered	A(M), B(R), C(R), D(R)*
Osprey	Pandion hallaeetus	Endangered	A(M), B(B,U), C(B,U)*
			D(U,B),E(U)*
American peregrine falcon	Falco peregrinus anatum	Endangered	A(h!), B(R)*
A Sandhill crane	Grus Canadensis	Special Concern	B(R)*
O American oyster catcher	Haematopus palliatus	Special Concern	B(R, P, B), C(R, P, B) *
Snowy plover	Charadrius alexandrinus	Endangered	A(11), B(R, P, B)*
	tenuirostris		
Red-cockaded woodpecker	Dendrocopos borealis	Endangered	B(R, P, B), E(R, P, B) *
	tenuirostris		
Gray kingbird	Tyrannus dominicensis	Undecermined	B(U,B),C(U)*
Bewick's wren	Tyromanes bewickii	Special Concern	B(R), D(R), E(R)*
Little blue heron	Florida caerulea	Special Concern	C,D, *
Black Growned nite heron	Nycticorax nycticorax	Special Concern	B,C(B) *
Kood stork	Mycteria americana	Special Concern	D, E(M) *
Merlin	Falco columbarius	Special Concern	B(N) *
Black Rail	Laterallus jamaicensis	Special Concern	C(M) *
	Falco peregrinus tundris		
Nammals:			
Southeastern myotis	Myotis a. austroriparius	Special Concern	* 3°C
Florida yellow bat	Lasturus floridanus	Special Concern	* H.O
Marsh rabbit	Sylvilagus p. palustries	Special Concern	
White-fronted beach mouse	Peromyscus polionotus ammobates	Endangered	* 3° €
(endemic)			
Perdido Bay beach mouse	Peromyscus polionotus trissyllepsis	Endangered	* a.a

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Common Name	Scientific Name	Statue	Habitat
COMPANY NAME	1		
Mammals: Continued	Taginna c. cinearous	Undetermined	+ ₩. ₩.
Florida black bear	Urans americans floridanus	Endangered	# # #
Ravon orav soufrrel	Sciurus carolinesis fullginosus	Special Concern	* 2 0
Florida Panther	Felis concolor coryi	Endangered	D(R)(B)*
Plante	Rhynchospora crinipes	Endangered	Ω
	Liltum iridollae	Endangered	ĵæ,
	Epidendrum conopseum	Endangered	A
	Ilex amelanchier	Endangered	\$Ec
	Psoralea simplex	Endangered	Q
	Oenothera grandiflora	Endangered	A
	Canna flaccida	Threatened	2
	Cleistes divaricata	Threatened	ĵ.
.1	Xyris drummondii	Threatened	Ç <b>e</b> ş
	Coreopsis gladiata	Threatened	₿ <b>z</b> 4
	Hypericum nitidum	Threatened	محم
	Ludwigia arcuata	Threatened	<b>.</b>
	Sageretia minutifolia	Threatened	ø
	Sarracenia psittacina	Threatened	Œ
	Cordonia lasianthus	Threatened	Q
	Momisia iguanea	Threatened	ø
	Lycopodium cernuum	Special Concern	<u>Pe</u> a
	Chamaecyparis thyoides	Special Concern	A
	Chamaecyparis thyoides var, henryae		
	Erioculon lineare	Special Concern	a
	Eriocaulon texense	Special Concern	<b>F</b> ee
	Habenaria integra	Special Concern	А
	Clethra alnifolia var. alnifolia		A
			•

Table II-5 (continued)

Habitat	Concern F Concern C Concern F Concern F Concern F	(M) - Migran
Status	Special Concern Special Concern Special Concern Special Concern Special Concern	(c)-Comon
Scientific Name	Kalmia hirauta Eustoma exaltatum Sabatia foliosa Hypericum reductum Pinguicula plainfolia Agalinus psaudophylla	D- Delta, River Swampland
Common Name Plants - Continued		A-Marine R-Reprise Telecia

Source: Keeler, 1972; Boschung, 1976.

- Permanent Resident - Breeds in habitat

- Migrant

EEE

(C)-Common (U)- Uncommon (R) - Rare

D- Delta, River Swampland E- Upland F- Acid bags

B-Barrier Island, Beach & Dunes

C-Estuarine & Marshland

Table II-6 Endangered species in coastal Alabama as designated by the U.S. Department of the Interior or U.S. Department of Commerce

		ويستهين المتحدث والمتحدث	
	Common Name	Scientific Name	Status
8	Fish:		
	Bluestripe shiner	Notropis callitaenia	Reviewing to
_	and the second s		determine status
I	Crystal darter	Ammocrypta asprella	Reviewing to
-	er en		determine status
	Amphibians & Reptiles:		
	Hawksbiil turtle	Eretmochelys imbricata	Endangered
	Leatherback turtle	Dermochelys coriacea	Endangered
	American alligator	Alligator mississippiensia	Endangered
	Brown pelican	Pelecanus occidentalis	Endangered
	Red hills salamander	Phaeognathus hubrichti	Threatened
_	Green sea turtle	Chelonia mydas	Proposed as
_	ACCOST RANGES	- Contraction of the contraction	endangered
	Loggerhead sea turtle	Caretta caretta	Proposed as
8	moPPerusar sea carette	Caleria carecta	endangered
	Birds:		endwide r e e
	Southern bald eagle	Haliaeetus leucocephalus	Endangered
8	Southern pard sagis	leucocephalus	Fuldwidered
	Amendeen nemendee follow	• · · · · · · · · · · · · · · · · · · ·	Endangered
-	American peregrine falcon	Falco peregrinus anatum	Endangered
	Artic peregrine falcon	Falco peregrinus tundrius	•
	Eskimo curlew	Numerius borealis	Endangered
	Ivory-billed woodpecker	Campephilus principalis	Endangered
	Red-cockaded woodpecker	Dendrocopos borealis	Endangered
	Bachman's warbler	Vermivora bachmanii	Endangered
		-	
	Mammals:		
	Florida panther	Felis concdorcoryi	Endangered
	West India (Florida) manatee	Trichechus manatus	Endangered
	Blue whale	Balaenoptera musculus	Endangered
	Finbach whale	Balaenoptera physalus	Endangered
	Sei whale	Balaenoptera borealis	Endangered
	Humpback whale	Megaptera novaeangliae	Endangered
	Right whale	Eubalaena ssp. (all species)	Endangered
	Sperm whale	Physeter catodon	Endangered

#### Plants:

Presently, approximately 31 species of plants are listed as endangered and 47 additional plants are being reviewed for status determination.

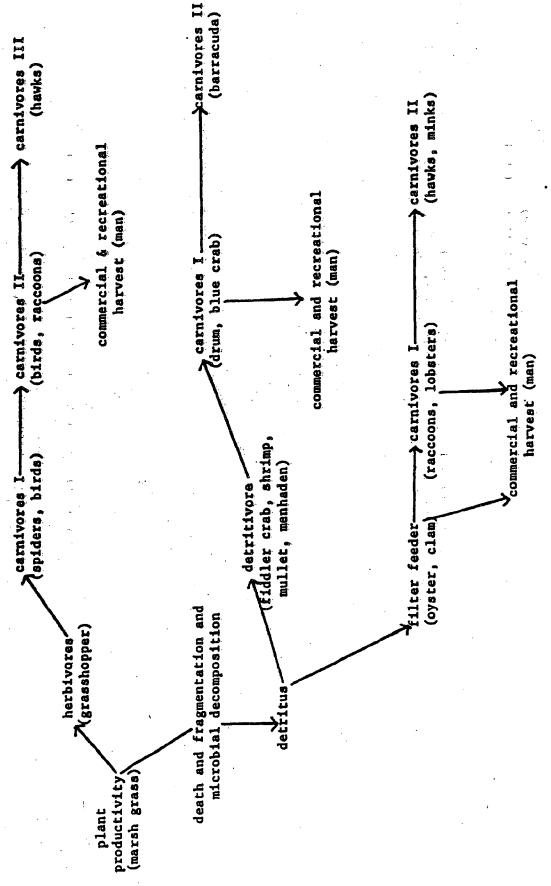


Figure II-5 Generalized estuarine food web (with some typical examples at each trophic level)

It is apparent that events which may disturb the energy flow at any point in the web may have far-reaching effects, not just at the specific level disturbed, but multiplying throughout the web. One must consider the entire biological spectrum in management planning and not only those species noteworthy because of their commercial, recreational or nuisance values.

## F. Water Resources

The continued economic growth of the Alabama Coastal Area is dependent to a great extent on the availability of adequate supplies of fresh water for private, public and industrial consumers. Population in the Coastal Area is growing and is augmented by increasing numbers of tourists and retired persons. Fortunately, large quantities of surface and ground waters are presently available to meet those needs.

# 1. Ground and Surface Water Supplies

Surface water in the Mobile and Baldwin Counties are flows from three major drainage basins: Mobile River basin, Escatawpa River basin, and Perdido River basin. The surface water resources of the Coastal Area include streams, natural lakes, ponds, and reservoirs. On the average, over 43 billion gallons of surface water pass through the Coastal Area each day.

The principal sources of ground water in Mobile and Baldwin Counties are the miocene-Pliocene and alluvial acquifers. An estimated 61,000 billion gallons of fresh water are stored in the Miocene- Pliocene aquifer. However, because of salt water intrusion, the volume of ground water stores above sea level represents the maximum exploitable supply, amounting to about 16,026 billion gallons. Coastal Alabama's alluvial aquifers store an additional 37 billion gallons.

The total sum of all exploitable surface and ground water is generally sufficient to meet the needs of coastal Alabama today. This supply, however, should be protected from activities which could pollute surface and ground waters.

## 2. Salt Water Intrusion

Salt water intrusion was experienced in Mobile during World War II as a result of excessive ground water withdrawals. Indications of salt water intrusion are presently seen in some wells on Dauphin Island and Gulf Shores, and in wells tapping the Miocene-Pliocene aquifer near the Mobile River upstream from Mobile (U.S. Army Corps of Engineers, 1955). Since further pumping of ground water for domestic and irrigation use is expected in the coastal zone, salt water intrusion could become a problem in some portions of the Alabama Coastal Area if overpumping occurs. To date, salt water intrusion is not a major problem but the potential is very great.

# 3. Deep Well Disposal

The disposal of liquid wastes in deep wells is regulated by the Alabama Department of Environmental Management's Underground Injection Control regulations, which apply to all non-oil and gas industry injection wells, and the State Oil and Gas Board, which regulates the disposal of brines produced as a result of oil and gas production.

Injection wells are divided into five classes or types of wells:

Class I - wells injecting wastes below the lowest underground source of drinking water.

Class II - wells injecting brines associated with the oil and gas industry.

Class III - wells used to solutionally mine soluble minerals.

Class IV - wells injecting hazardous materials into or above undergound sources of drinking water.

Class V - all other injection wells, e.g. air conditioning return flow wells.

Currently new Class I and IV wells are prohibited in Alabama.

#### G. Cultural Resources

The Alabama Coastal Area is rich in a variety of cultural resources, that is, those building, sites, objects, or other material significant in history, architecture, science, archaeology, or culture that may be of national, state, or local significance. It is estimated that at least 2,000 significant archaeological sites can be found in the Alabama Coastal Area, and many have been destroyed or allowed to deteriorate. At least 156 additional significant historic landmarks or sites have been identified in Mobile and Baldwin Counties. Seventeen sites located within the Coastal Area are included in the National Register of Historic Places. Fort Morgan and Mobile City Hall-City Market have been certified by the Secretary of the Interior to be of national importance and designated as National Historic Landmarks.

Mobile and Baldwin Counties' rich and varied past has certainly led to this myriad of cultural resources. These sites, which can easily fall to development pressures, are a valuable, non-renewable, and delicate resource.

#### CHAPTER THREE

POLICIES, OPERATIONAL RULES AND REGULATIONS, AND ACTION ITEMS OF THE OFFICE OF STATE PLANNING AND FEDERAL PROGRAMS AND THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Coastal Alabama is an area of opportunity and high growth potential. Its plentiful natural and man-made resources offer an attraction for a variety of economic, social, recreational, and natural uses. The attractiveness of the Mobile SMSA as an industrial, tourist, and recreational area has brought with it competition for the finite coastal resources which are located in the area.

The coastal area with some 400,000 acres of bays and estuarine waters, 183,000 acres of wetlands, 130 identified species of birds, a commercial fishing catch with a final value estimated at \$148 million. and a registration of over 23,300 recreational boats also has major industrial and municipal sources discharging over 170 million gallons per day of various waste products into coastal waters, a booming second-home construction business throughout the area's waterfront, a maintenance dredging requirement producing 7 million cubic yards of spoil material annually, the prospects of increased energy development (gas and oil), and the possibilities of additional growth related to the Tennessee-Tombigbee Waterway. As competition for resources becomes more intense, special efforts must be developed to resolve potential conflicts in order to allow an opportunity for fishermen to harvest the rich coastal fishery yields while industries use the water resources for process water, transportation and some waste assimilation and providing employment opportunities for local residents. A balance must be achieved which sustains economic development on the one hand and which protects natural resources on the other.

The coastal resource use and natural resource protection policies listed below are presented to form the basis for the decision—making process in the Coastal Area Management Program. Future activity in the Coastal Area will be evaluated for consistency with these policies. Certainly the Office of State Planning and Federal Programs (OSP) and the Department of Environmental Management (DEM) encourages the enhancement of coastal resources, but feels that the best approach to coastal issues is to take the major step of maintaining present levels of coastal resources. Once this is accomplished, the OSP and DEM can focus more attention on enhancing the Coastal Area.

After careful review of all coastal issues and development of its basic policies, the operational rules and regulations in Chapter Four, were adopted to implement the program and to undertake certain action items to address specific coastal issues that are inherent in the Coastal Area. The action items listed below are examples of activities that the OSP and DEM proposes to consider during implementation of the Coastal Area Management Program. These and other action items will be undertaken within the technical and financial resources of the Office of State Planning, and Department of Environmental Management.

# SECTION I. COASTAL RESOURCE USE POLICIES, OPERATIONAL RULES AND REGULATIONS AND ACTION ITEMS

# A. Coastal Resource Use Policies

# 1. Coastal Development

The Alabama Coastal Area Management Program encourages and supports the continued development of the economic resources of the Coastal Area, including the port, industrial, energy and recreational resources, so that they may continue their full contribution to the economic well-being of all citizens, and development within coastal Alabama will be carried out in a manner which is consistent with the programs policies for natural resources.

# 2. Mineral Resource Exploration and Extraction

It is the policy of the Management Program to encourage the extraction of mineral resources in coastal Alabama consistent with the water quality policies and natural resource policies of the ACAMP.

#### 3. Commercial Fishing

To encourage and promote the commercial fishing industry in coastal Alabama, it is the policy of the ACAMP to maintain conditions that support present populations, and where feasible, to enhance marine species and to encourage conservation practices favoring increases of marine and estuarine species which will increase the potential yield of Alabama's coastal fisheries.

#### 4. Hazard Management

Human activities within hazard management areas including flood and hurricane prone areas will be carried out in a manner which sustains the area's natural capability of absorbing the effects of flood and hurricane events, and-development within these areas shall be designed, located, and constructed in a way that minimizes the possibility of property damage and human suffering resulting from hazard events.

## 5. Shoreline Erosion

It is program policy that the existing natural or man-made character of coastal shorelines shall be maintained in a manner to prevent the erosion of the Alabama coastline with primary emphasis on non-structural forms of erosion control, and where feasible, enhancement of the natural protective functions of the shoreline shall be encouraged.

#### 6. Recreation

Public access to and use of existing recreational lands and waters, such as beaches, marinas, and fishing grounds, will be safeguarded, and the ACAMP encourages the development of additional

recreational opportunities to enhance the well-being of Alabama citizens as well as residents of other states.

#### 7. Transportation

Recognizing the need for safe, convenient, rapid and economic access to, through and from Alabama's coastal lands and waters, the ACAMP encourages and supports the orderly growth of the area's program policies regarding natural resources.

## B. Coastal Resource Use Operational Rules and Regulations

Specific rules and regulations have been drafted for the ACAMP to implement the coastal resources use policies above. The following coastal resource rules and regulations may be found in Section VII(C) of Chapter Four:

- regulations for the siting, construction and operation of energy facilities;
- 2. regulations for dredge and filling;
- 3. regulations for shoreline erosion
- 4. regulations for public access;
- 5. regulations for natural hazards; and
- 6. regulations for solid waste disposal.

# C. Coastal Resource Use Action Items

#### 1. Economic Development

- (a) The OSP will, within its resources, provide technical and financial assistance to port development agencies to plan narbor facilities to meet future demand, to determine appropriate areas for disposal of dredged materials, and to promote the development of port facilities.
- (b) The OSP, within its means, will provide technical assistance and funding for special studies to meet Alabama's energy needs through the development of the energy resources of the Coastal Area consistent with the management program; by assisting appropriate agencies to devise an environmentally acceptable statewide energy plan; and by assessing site suitability as well as anticipating and managing impacts for planned energy facilities.
- (c) The OSP will coordinate with the Coastal Energy Impact Program to provide financial assistance so that local communities may accommodate energy-related development in a planned and environmentally responsible manner.
- (d) The DEM will work with all other involved agencies to make every attempt to coordinate and simplify the permitting process in the Coastal Area.

- (e) The DEM will work toward the establishment of a central location in the coastal area for obtaining information about permitting within the Coastal Area.
- (f) The ACAMAs will coordinate with other involved agencies to assist in determining the environmental and social impacts that may result from the development of the Tennessee-Tombigbee Waterway.
- (g) The ACAMAs will coordinate closely with other involved agencies in developing a coastal fisheries management program for coastal Alabama.

# 2. Shoreline Erosion

The OSP will provide technical and financial assistance for special studies to assess the suitability of certain types of erosion control measures in specific areas; to educate the public regarding erosion-related matters; and to investigate methods to acquire specific areas within the Coastal Area that are subject to significant erosion.

# 3. Public Access

To meet anticipated demands for public access to valuable waterfront recreational areas the OSP will identify methods and sources of funds to acquire and develop additional areas for public access; use appropriate programs and funds to acquire additional areas for public access; and investigate techniques for acquiring additional areas for public access.

# 4. Hazard Management

Where possible, the OSP will provide technical assistance related to protection from floods, erosion and hurricanes and investigate the feasibility of acquiring title to lands within the Coastal Area that are prone to severe hurricane or flood damage.

SECTION II. NATURAL RESOURCE PROTECTION POLICIES, OPERATIONAL RULES AND REGULATIONS AND ACTION ITEMS

# A. Natural Resource Protection Policies

## 1. Biological Productivity

It is the policy of the ACAMP to maintain present levels of plants and animals within coastal Alabama; to enhance, where feasible, biological productivity; and to monitor directly these levels through regular sampling.

# 2. Water Quality

It is the general policy of the ACAMP to maintain the coastal waters of the State at a quality which will support present levels of estuarine organisms, plants and animals and, where feasible, to enhance and restore water quality to support optimum levels of estuarine organisms, plants and animals.

#### 3. Water Resources

Recognizing that the water resources of the Coastal Area are held in trust by the State of Alabama for the population of the State, it is the policy of the ACAMP that these resources shall be managed to insure that sufficient quantities of clean water are available to meet present and future demands.

# 4. Air Quality

It is the policy of the ACAMP to maintain air quality in coastal Alabama at a level which supports the health and well-being of Alabama's citizens and, where feasible, to enhance air quality.

## 5. Wetlands and Submersed Grassbeds

The quality and quantity of coastal wetlands and submersed grassbeds shall be maintained at the level necessary to provide for present levels of habitat for both terrestrial and aquatic life to play their pivotal role in the aquatic food web and to provide natural control for shoreline erosion and, where practicable, to enhance the quality and quantity of these wetlands and submersed grassbeds.

#### 6. Beach and Dune Protection

Recognizing the natural value of beaches and dunes for erosion control, wildlife habitat, and recreational opportunities, it is the policy of the ACAMP to maintain the natural integrity of the beach and dune systems and to restore and enhance these valuable resources where feasible.

# 7. Wildlife Habitat Protection

It is the policy of the ACAMP to maintain areas of wildlife habitat sufficient to support present levels of terrestrial and aquatic life, including fish and shellfish, and to preserve endangered species of plants and animals and, where feasible, to provide for optimum levels of terrestrial and aquatic life.

#### 8. Endangered Species

It is the policy of the ACAMP to promote and encourage the preservation of the critical habitat of recognized endangered species.

## 9. Cultural Resource Protection

Because of the wealth of unique and representative archaeological and historic sites in coastal Alabama and their educational and cultural values, it is the policy of the ACAMP to support preservation and protection of Alabama's cultural resources.

# B. Natural Resource Protection Operational Rules and Regulations

Specific rules and regulations have been drafted for the ACAMP to implement the natural resource protection policies above. The following natural resource rules and regulations may be found in Section VII (D) of Chapter Four:

- 1. regulations for water quality
- 2. regulations for wetlands and submersed grassbeds;
- 3. regulations for air quality;
- 4. regulations for beaches and dunes;
- 5. regulations for water resources;
- 6. regulations for protection of cultural resources;
- 7. regulations for fisheries management and;
- 8. regulations for wildlife and wildlife habitat.

## C. Natural Resource Protection Action Items

# 1. Water Quality

- (a) The DEM supports all ongoing efforts of the Environmental Protection Agency to monitor and control water quality problems throughout the Coastal Area especially in areas of conflicting use where the problem may be more severe.
- (b) To develop the management information necessary to assess reasonably the impacts of coastal development on coastal waters, special studies will be conducted to establish a biological baseline of the Coastal Area including bottom characterization, determining present levels of animal species, and comprehensive inventories of wetlands and submersed grassbeds, as well as the chemical characterization of water quality.

## 2. Wetlands and Submersed Grassbeds

- (a) Because of their important natural functions, the OSP will provide financial and technical assistance within its means to study the vulnerability of and stresses placed upon these valuable areas. Based upon this information, the DEM can institute reasonable safeguards for the preservation of these natural resources.
- (b) As part of the biological baseline analysis of the Alabama Coastal Area, the OSP will conduct special studies to determine the quality, quantity, and location of all wetlands and submersed grassbeds.

# 3. Beaches and Dunes

Because of their important role in erosion control and as a nabitat for certain plant and animal species, the OSP will conduct special studies to determine the extent and location of the beaches and their associated dune systems within the Coastal Area.

# 4. Cultural Resources

The OSP will explore funding sources and assist in obtaining funds to acquire appropriate open space areas and investigate funding sources to identify, restore, preserve, and ennance valuable historic areas.

#### CHAPTER FOUR

# ELEMENTS OF THE COASTAL AREA MANAGEMENT PROGRAM

# SECTION I. BOUNDARY

In the Regular 1976 Session, the Alabama Legislature passed Act 534 (codified as \$9-7 of the Code), establishing the boundary of the Coastal Area subject to the Coastal Area Management Program in Alabama. During the 1982 legislative session the Alabama legislature passed Act 82-612 which amended \$ 9-7 of the Code of Alabama but reaffirmed its' protective provisions (protecting and enhancing our coastal area).

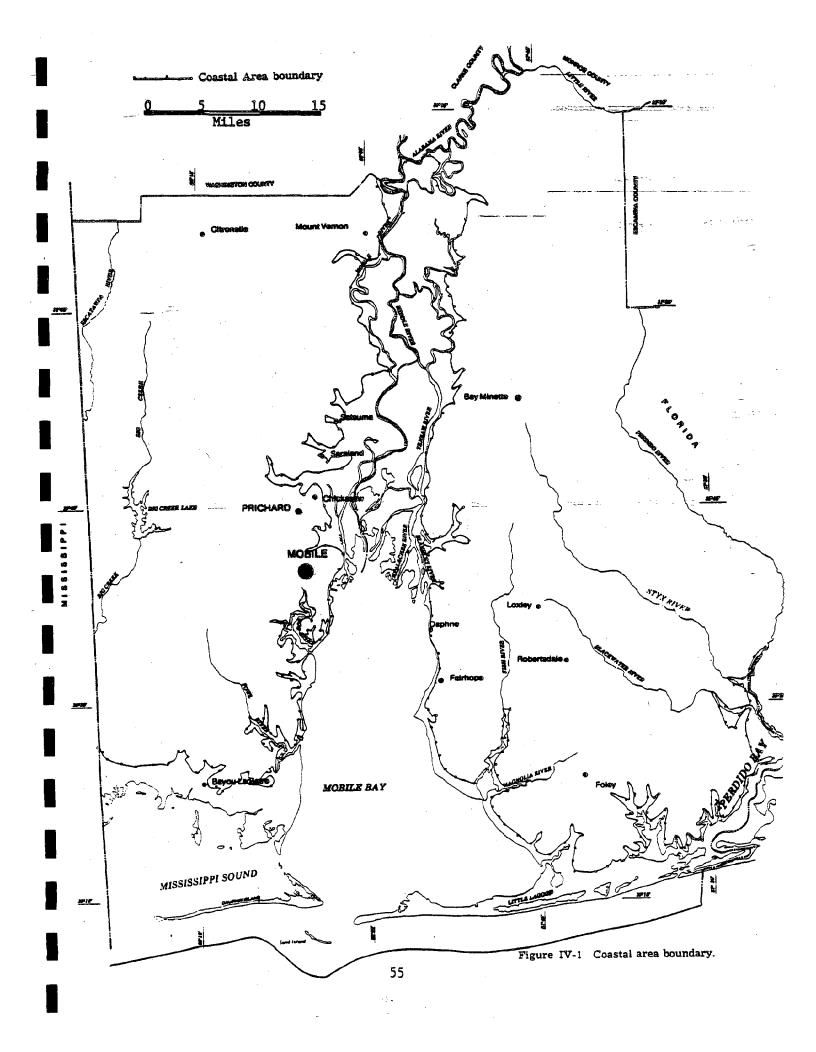
Article (1) of 89-7, reaaffirmed in Section 11(a)(1) of Act 82-612, defines coastal area as the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) strongly influenced by each and in proximity to the shorelines of Alabama, and includes transitional and intertidal areas, salt marshes, wetlands and beaches. The area extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters.

Title 9 Chapter 7 of the Code as amended by Act 82-612 fixes the inland boundary of the Coastal Area more specifically as the continuous 10-foot contour where the land surface elevation reaches 10 feet above mean sea level (Figure IV-1). The Coastal Area encompasses all land seaward of the 10-foot contour including the coastal islands.

Within this boundary, the State has developed a Coastal Area Management Program setting forth objectives, policies and standards to guide public and private users of land and water. Although the management program will not directly regulate activities outside the Coastal Area, the authority of the Alabama Coastal Area Management Program within the Coastal Area is such that it may preclude from the Coastal Area those uses and effects of uses which have a direct and significant impact within the Coastal Area and which are inconsistent with the management program.

#### Inland Boundary

Following several public hearings in the Coastal Area at which various alternative inland boundaries of the Coastal Area were considered, ranging from mean sea level to the entireties of Mobile and Baldwin Counties, the Alabama legislature adopted an inland boundary which permits the Alabama Coastal Area Management Agencies (ACAMAs) to manage those uses that may have a direct and significant impact upon coastal waters and which includes all Geographic Areas of Particular Concern (GAPC's). The specific limits of the inland boundary are as follows:



"The inland boundaries of the Coastal Area subject to the management program are described as follows: Begin at the southernmost point on the Mississippi-Alabama State line where the land surface elevation reaches 10 feet above mean sea level and continue in a general easterly direction along the 10-foot contour to the proximity of Mobile Bay: continue in a northerly direction on the 10-foot contour along the western shore of Mobile Bay and the Mobile River delta to the north line of Mobile County: thence southeastward along the north line of Mobile County to the intersection with the Baldwin County lines in the Mobile River: thence along the west and north lines of Baldwin County in the Mobile and Alabama Rivers to the intersection of the southwest corner of Monroe County: thence eastward along the Baldwin County line to the intersection of the westernmost point of Baldwin County where the land surface altitude reaches 10 feet above mean sea level; thence along the 10-foot contour in a southwesterly and southern direction along the Alabama River, the Mobile River delta and the east shore of Mobile Bay to the proximity of Bon Secour; thence continue along the 10-foot contour in an easterly and northeasterly direction to the Alabama-Florida State line".

## Lateral Boundaries

The eastern boundary of the Coastal Area is the Alabama-Florida state line. This lateral boundary continues due south to the outer limit of the United States territorial sea.

The western boundary of the Coastal Area is the Alabama-Mississippi state line. This lateral boundary extends due south from the point where the Mississippi-Alabama state line passes the barrier islands to the outer limit of the United States territorial sea.

#### Seaward Boundary

The seaward boundary, which is the outer limit of the territorial sea, runs parallel to the Alabama coast three miles southward from the land-sea interface of Mobile and Baldwin Counties.

# Interstate Boundary

The Mississippi Coastal Managment Program was approved in September, 1980 and is being implemented. The Mississippi coastal boundary includes all three coastal counties, Hancock, Harrison, and Jackson.

Florida's Coastal Management Program was approved in September 1981. The entire state and its territorial waters are included in its coastal boundary.

# Excluded Federal Lands

In accordance with section 304(a) of the Coastal Zone Management Act of 1972, federal lands (all lands and types of land owned, leased, held in trust or otherwise solely used by federal agencies) within Alabama's Coastal Area are excluded from the Coastal Area boundary (Table IV-1). However, any activities or projects which are conducted within these excluded lands that have a significant impact on the lands or water of Alabama's Coastal Area, are subject to the consistency provisions of Alabama's Coastal Area Management Program.

TABLE IV-1. Identified federally-owned lands within Alabama's coastal area

General Services Administration	.8	acres
Old Federal Building		
General Services Administration	-8	acres
New Federal Building		
Theodore Army Terminal	43.3	acres
(partially in coastal area)		
Department of Transportation		
Coast Guard-Dauphin Island Station	3.8	acres
Department of Transportation		
Coast Guard-Dauphin Island Housing	16.0	acres
Department of Healtn, Education, and Welfare		
Food and Drug Administration-Dauphin Island	4.0	acres
Department of Transportation		
Coast Guard-Sand Island Lighthouse	.2	acres
Department of Transportation		
Mobile Industrial Base	51.1	acres
Department of Transportation	22.0	
Mobile Point Rear Range Light	23.9	acres
Corps of Engineers	22 11	20725
Intracoastal Waterway - Mobile-Pensacola	22.4	acres
Department of the Interior		
Bureau of Land Management	12 0	6 acres
Baldwin T8S, R3E, Sec. 5, Fractional		4 acres
T9S, R1E, Sec. 25, Lot 24 T9S, R1E, Sec. 26, Lots 13 and 14		2 acres
T9S, R2E, Sec. 25, Lots 73 and 74		4 acres
T9S, R2E, Sec. 27, Lots 54 and 55		6 acres
Mobile T7S, R2W, Sec. 25,		1 acres
Lots 2, 3, 4, and 5		
FOOD 51 31 44 mm >		
TOTAL FEDERAL LAND	251.3	7 acres
is the grant and an external and a high soft of		•

# SECTION II. MANAGEMENT AUTHORITY OF THE ACAMP

The legislature of Alabama through the enactment of §9-7, as amended by Act 82-612, established the Alabama Coastal Area Management Program to preserve, protect, develop, and where possible to restore and enhance the natural, cultural, historic, aesthetic, commercial, industrial and recreational resources of the State's Coastal Area for this and succeeding generations.

## A. Alabama Act

In order to carry out this broad charter, the legislature provided the ACAMAs with several powers.

# Management Program

The Office of State Planning and Federal Programs was mandated to develop a comprehensive Coastal Area management program. In Article 1 of §9-7 (reaffirmed in Section 11(a) of Act 82-612), the management program is defined to include, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the State in accordance with the provisions of the Act, setting forth objectives, policies and standards to guide public and private users of lands and waters in the Coastal Area.

Additional authority given to the OSP in establishing the management program is the ability to determine "permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area", (Article 5 of §9-7 (as amended by Section 11 Act 82-612), and the authority to establish priorities of uses within the Coastal Area, (Article 5) of §9-7 and Section 3 and 4 of Act 82-612). Particular areas in this context have the same meaning as Geographic Areas of Particular Concern.

#### 2. Permits

No state agency shall issue a permit for any activity in the coastal area unless the Department of Environemntal Management has issued a declaration of consistency with the management program. The Alabama Department of Environmental Management is given authority under Section 4 of Act 82-612 to review each proposed coastal activity in terms of the policies and standards of the coastal management program, to establish any necessary rules and regulations, and to assure program compliance. More specifically the DEM is authorized to perform and carry out the following permit activities:

a) To control pollution in the waters of the state, to conduct any necessary surveys, to review permit applications for activities which would result in a discharge into the states streams and tributaries, and to issue, modify or revoke orders related to the pollution of such water resources, ( 22-22-1) as amended.

- b) Issue, deny, revoke or modify permits for the construction or extension of water systems, supplying water for domestic or public purposes (Title 22-23-30, as amended).
- c) Issue or deny licenses for water well drilling operations (Title 22-24-1, as amended).
- d) Issue or deny a license for waste water treatment and disposal operations (Title 22-25-1, as amended).
- e) To issue or deny and regulate the operation and maintenance of solid and hazardous waste dump and disposal sites. (Title 22-27-1, and 22-30-1, as amended).
- f) Protect and enhance air quality in the state (Title 22-28-1, as amended).
- g) To review other state agency permits and make a determination of compliance with the Coastal Management Program (Title 9-7-20, as amended).

## 3. Acquisition of Real Property

The OSP is authorized by Section 89-14 (j) (as amended) "to acquire fee simple and less than fee simple interest in land, water, and other property..." when necessary to achieve conformance with the management program.

This section gives the OSP the authority to acquire property by the eminent domain procedure (providing that no property or interest therein may be taken without payment or full compensation and that no property which is already devoted to public use may be obtained by such power) and by other means such as purchase, gift, etc.

# B. Coastal Zone Management Act of 1972

#### Federal Consistency

The Coastal Zone Management Act of 1972 (Title 16 U.S.C. Section 1456) conveys to the State of Alabama the authority to review federal projects, federal licenses and permits, OCS plans, and federal assistance for consistency with the approved management program under the provisions specified in Section 307 of the Act.

Sections 307 (c), (1), (2), (3) and (4) of the Coastal Zone Management Act state:

(c) (1) Each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the

maximum extent practicable, consistent with approved state management programs.

- (2) Any federal agency which shall undertake any development project in the coastal zone of a state shall ensure that the project is, to the maximum extent practicable, consistent with the approved management programs.
- (3) ...any applicant for a required federal license or permit to conduct an activity affecting land or water uses in the coastal zone of the state shall provide in the application... that the proposed activity complies with the state program and that such activity will be conducted in a manner consistent with the program.
- (d) Federal agencies shall not approve proposed (financial assistance) projects that are inconsistent with a coastal state's management program.

The DEM, will determine whether the above federal activities, projects, permits, and assistance are consistent with the management program as provided by Section 307 of the Coastal Zone Management Act. The DEM will take measures available under Section 307 of the federal act to insure that the actions of federal agencies are consistent with the Coastal Area Management Program.

#### SECTION III. USES SUBJECT TO MANAGEMENT

#### A. Uses with a Direct and Significant Impact on the Coastal Area

The Coastal Zone Management Act of 1972 and its 1976 amendments require that the ACAMP set forth in general terms the uses that will be subject to the provisions of the coastal management program. As a general guide, 89-7 (reaffirmed in Sections (3)(a), (4) (1), and 10(9) of Act 82-612) specifies that the State manage those land and water uses which are determined to have a direct and significant impact upon coastal waters. These land and water uses which are subject to management under the program will be reviewed by the DEM either through an existing permitting program, or, in some limited cases, through a new permitting program. See section V of this chapter for a detailed description of the review procedure to which these uses will be subject.

The definition of Direct and Significant Impact provides an operational framework within which to evaluate the inclusion or exclusion of particular uses within the management program.

<u>Direct</u> is defined herein as a casual relationship in which the consequence of an action or use exerts an impact upon the Coastal Area through an identifiable link or process.

Significant Impact is defined herein as the result of any activity which is likely to have a more than negligible effect on the Coastal Area or on coastal resources.

The following broad categories of uses are determined to have a direct and significant impact upon the Coastal Area:

- Uses which contribute to a waste discharge from point and nonpoint sources to the surface and ground waters of the Coastal Area (nonpoint sources in this context include leachate from solid waste disposal sites and septic tank fields as well as runoff from various types of land uses).
- Uses which contribute to the siltation and sedimentation of determination, the aggrieved person or entity must file a notice of
- Uses which lead to the loss of significant quantities of usable water resources.
- Uses which alter water circulation patterns.
- Uses which significantly increase vulnerability to natural hazards.
- Uses which lead to shoreline erosion.
- Uses which alter or destroy wetlands, beaches and dunes, or plants and animals.
- Uses which cause the loss of or adversely affect archaeological or historical sites.
- Uses which affect air quality.

In order to provide additional guidance to persons undertaking uses within the Coastal Area, the following list of uses should be considered subject to the management program.

- a. Port and harbor development, including facility construction, channel maintenance, and transportation facilities;
- Industrial development, including siting, construction, operation, and transportation;
- c. Dredging or filling;
- d. Urban development, including the siting, construction and operation of residential, industrial, and government structures, and transportation facilities;
- e. Energy development, including siting, construction, and operation of generating, processing and transmission

facilities, pipeline facilities, and exploration for and production of oil and natural gas;

- f. Mining activities, including surface, subsurface, and underground mining, geothermal energy, and mining oyster shells and sand;
- g. Wastewater discharge, including point and non-point sources:
- h. Solid waste disposal, and storage or raw materials:
- Recreation developments, including construction and operation of public and private facilities and marinas;
- j. Commercial fishing:
- k. Air emissions; and
- 1. Any other uses which may have a direct and significant impact on the Coastal Area.

## B. Uses of Regional Benefit

In Article 6 of 89-7 (reaffirmed by Section 3(a), (4)(i) and 10(c) of Act 82-612) it is directed that the management program give adequate consideration to the local, regional, state and national interest involved in the siting of facilities for the development, generation, transmission and distribution of energy, adequate transportation facilities and other public services necessary to meet requirements which are "other than local in nature".

This feature of the management program and the accompanying state policy are partially a response to requirements in the Federal Coastal Zone Management Act and its regulatory framework that this management program must identify what constitute uses of regional benefit and what methods and authorities will assure that local land and water use regulations do not reasonably restrict or exclude uses of regional benefit. 15 CFR Sections 923.13, 923.43.

Uses of a regional benefit and uses which are other than local in nature have the same meaning, i.e. uses which produce some benefit by providing services or other benefits to citizens of more than one unit of local government.

#### Uses of Regional Benefit:

- (1) Regional or statewide recreational facilities;
- (2) Major transportation facilities such as highways, ports, airports;
- (3) Major energy transmission and generating facilities;

- (4) Regional water and waste treatment facilities; and
- (5) Regional solid waste disposal sites.
- 2. Authority to Prevent Unreasonable Restrictions

The ACAMP's enabling legislation provides the authority to OSP and DEM, to assure that local governments do not unreasonably restrict or exclude land and water use of a regional benefit through their regulations. As explained in Section II, Management Authorities, the ACAMAs have the authority to determine permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area.

Through the authorities of the ACAMA to acquire land, the OSP can assure that sites will be available for use of regional benefit (Article 5 of § 9-7 and Section 5(m) of Act 82-612), and a number of other public and semi-public agencies have the power under Alabama law to condemn or purchase land which could be used for uses of a regional benefit (Table IV-2).

In addition, the management program gives local government the option to have the codes, regulations, plans, or rules, under which local licenses or permits are issued, reviewed in advance by the DEM for consistency with the mangement program. As a part of this review, the ACAMP requires that the code, rule, regulation or plan not unreasonably restrict uses of a regional benefit. If the local mechanism is consistent and is enforced in that manner, the DEM defers its review function to the local government. Nevertheless, ultimate authority to review these uses rests with the DEM. If the local mechanism on its face or in its application unreasonably restricts or excludes uses of a regional benefit, the DEM would work with the local government to assure that this feature was eliminated.

## TABLE IV-2

Agencies, corporations, persons, or units of government which have power of eminent domain which might be used to assure that sites will be available for uses of regional benefit.

#### Alabama Code

(1) Regional or statewide recreational facilities

State of Alabama, any county, any municipality Environmental improvement authorities County housing authorities Municipal housing authorities State of Alabama Section 18-1-1 Section 9-6-8 Section 24-1-67 Section 24-1-28 Section 9-7-14

## (2) Major transportation facilities

Municipal Airports	Section 18-1-1 Section 4-4-6 Section 4-2-93
Dauphin Island Bridge Authority	Section 23-2-87
State Toll Bridge Authority	Section 23-2-47
Harbor and port authorities	Section 33-1-22
Highways	Section 23-1-45
Alabama Turnpike Authority	Section 23-2-9
Those corporations formed for the purpose of constructing, operating, or maintaining railroads, water companies, power companies terminals, bridges, viaducts, piers, telephone or telegraph lines, pipelines, or any other wo of internal improvements or a public utility	rk Section 10-5-4
State of Alabama	Section 9-7-14
(3) Major energy transmission and generating facil	ities
State of Alabama, any county, any municipality Those corporations formed for the purpose of constructing, operating, or maintaining railroads, water companies, power companies, terminals, bridges, viaducts piers, telephone or telegraph lines, pipelines, or any other work of internal improvements or a public	Section 18-1-1

utility

Erection of dams, mills, factories, etc. for the public use

Solution and suppressing

Mining, manufacturing, power, and quarrying corporations

State of Alabama

Section 10-5-4

Section 18-2-1-21

Section 10-5-3 Section 9-7-14

# (4) Regional water and waste treatment facilities

State of Alabama, any county, any municipality	Section 18-1-1
Watershed conservancy districts	Section 9-8-61
Water conservation and irrigation agencies	Section 9-10-34
Water management and drainage districts	Section 9-9-21
State of Alabama	Section 9-7-14

# (5) Regional solid waste disposal sites

State of	Alabama, any	county,	any	municipality	Section '	18-1-1
State of	Alabama				Section	9-7-14

## C. Uses Not Subject to the Management Program

The following uses, which take place within the Coastal Area or which have an impact on it, will not be subject to the management program to the extent that they do not involve dredging, filling, new or additional discharge into coastal waters, or drainage of wetlands.

- All uses which do not have a direct and significant impact within the Coastal Area.
- 2. The accomplishment of emergency decrees of any duly appointed health officer of any county or municipality or the state acting to protect the public health and safety.
- The conservation, repletion and research activities of the Marine Environmental Sciences Consortium, the Marine Resources Division of the Department of Conservation and Natural Resources, and the Mississippi-Alabama Sea Grant Consortium.
- 4. Activities of any mosquito control commission which is a political subdivision or agency of the State of Alabama.
- 5. Completion of any development not otherwise in violation of law for which a valid building permit based on appropriate zoning was issued prior to final approval of the rules and regulations pursuant to this act and which development was initiated prior to such approval.
- 6. The exercise of riparian rights by the owner of the riparian rights, provided that the construction and maintenance of piers, boathouses and similar structures are constructed on pilings that permit a reasonably unobstructed ebb and flow of the tide.
- 7. The normal maintenance and repair of bulkneads, piers, roads, and highways existing on the date of final approval of the management program pursuant to the Act.
- The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.
- 9. Normal maintenance and repair activities of railroad and of utilities or persons engaged in transportation, or in telephone communication service, or in the distribution or transmission of gas, electricity, or water, or the collection of sewage including inspecting, maintaining, repairing, or renewing on private or pubic rights of way any sewers, mains, conduits, pipes, cables, utility tunnels, power lines, towers, poles, tracks, bridges, trestles, and drainage facilities or the like, or making service connections thereto, or inspecting, maintaining, repairing, or renewing any substation, pumping or lifting facility.

10. The use of any land for the purpose of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes.

The listing included above of uses which are not subject to the coverage of the management program are obtained from the list of Permissible Uses in Section 4 of the §9-7 and Section 11(a) of Act 82-612, where the Legislature indicates its intent that those uses be permitted within the management area. Despite their inclusion in the list of excluded uses, they are brought under the jurisdiction of the management program if they involve dredging, filling, new or additional discharge into coastal waters, or draining of wetlands.

# SECTION IV. SPECIAL MANAGEMENT AREAS

Within the Coastal Area of Alabama, there are specific areas which might require attention beyond the general provisions of §9-7-6 of the Coastal Area Management Program—special management areas. There are two types of special management areas: Geographic Areas of Particular Concern (GAPC) and Areas for Preservation and Restoration (APR).

# A. Geographic Areas of Particular Concern (GAPC)

Within coastal Alabama certain areas have been determined to be of particular concern because of their coastal-related values or characteristics or because they may face special pressures. These areas deserve special attention because of their uniqueness and importance to the Coastal Area. They require additional analysis and evaluation because of the complex issues related to these areas. By designating these areas as GAPC's, the Office of State Planning can work with other agencies as well as within its own resources to make these areas a focus for planning and studies to help ease the stress which might be placed on these areas by the expected growth in coastal Alabama.

## 1. Criteria for GAPC Designation

Based on guidelines established by the National Oceanic and Atmospheric Administration, the ACAMP delineates the following categories to be used as a basis for GAPC nominations:

- a. Important Natural Areas These are areas of unique, fragile, scarce, or vulnerable natural habitat; areas of high natural productivity or essential habitat for living resources, including fish and wildlife, as well as the various trophic levels in the food web critical to the wellbeing of fish and wildlife.
- b. Culturally Valuable Areas These are Coastal Areas of cultural value, historical significance, and scenic importance.
- c. Recreation Areas These are areas of urban concentration where shoreline and water uses are nighly competitive.
- d. High Density Areas These are areas of urban concentration where shoreline and water uses are highly competitive.
- e. Significant Commercial and Industrial Areas These are areas of unique or topographic significance to industrial or commercial development.
- f. Natural Hazard Areas These are Coastal Areas that are vulnerable to hazards such as storms, hurricanes, floods, erosion or land settlement.
- g. Natural Protection Areas These are areas needed to protect, maintain or replenish coastal lands or resources.

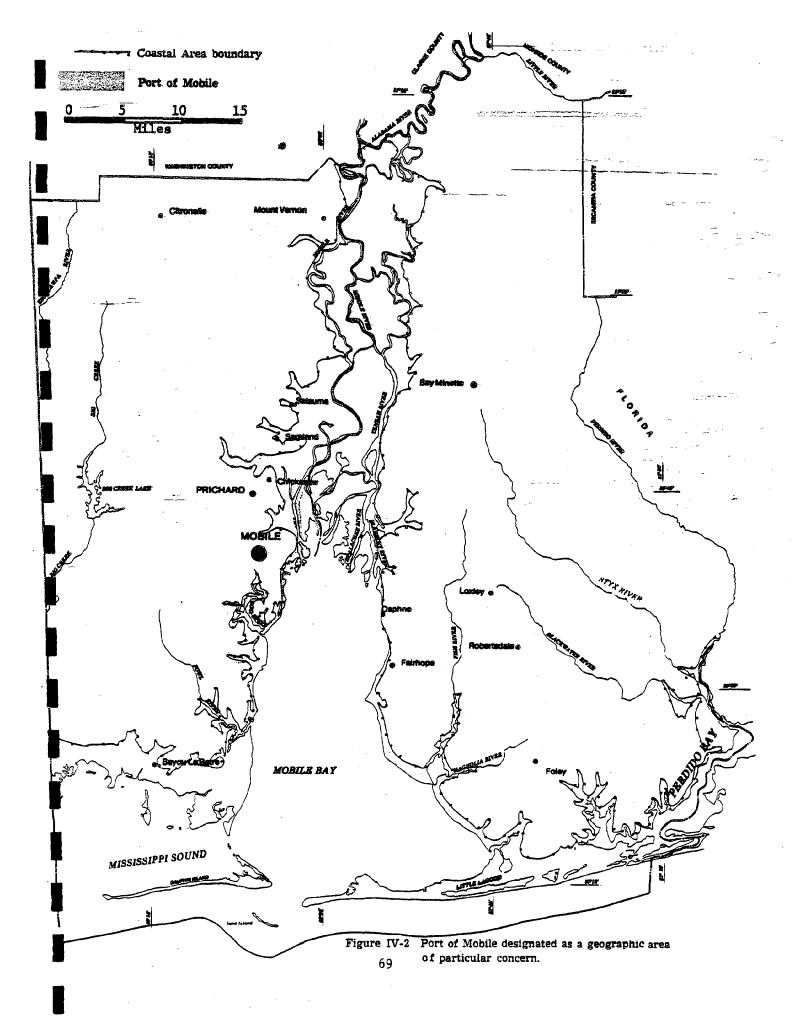
After consultation with various agencies and individuals, extensive review of the entire Coastal Area, careful consideration of all coastal resources, and analysis of many alternatives for GAPC designation, the Port of Mobile and the Mobile-Tensaw Delta have been identified as geographic areas of particular concern.

For each GAPC presented, there appears a description of the area, generalized map of the area, summary of the concern or significance of the area, and a listing of use priorities. Priorities of use have been established to provide general guidance in determining the uses in each separate GAPC. Categories of uses which are not mentioned on each list of priority uses are not necessarily excluded from the GAPC; rather, they will be considered to have a lower priority to be conducted in that particular GAPC. Those categories of uses which are specifically prohibited are intended to be excluded from the GAPC. Although a priority of use may be listed under a particular GAPC, there may be special instances where the ACAMP may not authorize such a use to occur. Upon request, the OSP will advise interested persons, based on information available to the OSP, whether a parcel is located within a designated GAPC. This decision will be based on the location of the parcel and the category of coastal resources it contains.

## 2. Designated GAPC's

## a. Port of Mobile

- (1) Description The Port of Mobile includes the urban waterfront of the Theodore Industrial complex and the urban waterfront of the City of Mobile from Brookley Industrial Area to the confluence of the Mobile River and Three-mile Creek including Pinto Island, McDuffie Island, and Blakeley Island (Figure IV-2). Within these north and south boundaries, the Port of Mobile extends inland to include all local operational facilities relevant to the operation of the port. The Ports, which are the third largest on the Gulf Coast, are served by an excellent network of transportation facilities. Interstate 10 and three railroads provide direct access throughout the Southeast. The ports coal terminal is in the third phase of an expansion that will triple its handling capacity. A 40-foot deep navigation channel provides water access from the port, through Mobile Bay, to the Gulf of Mexico. This channel is too shallow to birth modern day cargo ships. Funds have been appropriated and permits issued to deepen this channel to 55 feet. However, because of the 30 foot channel depth at the Interstate 10 tunnel the port will have to expand its facilities southward. The Alabama State Docks system, which is the largest component of the port, includes about 2,500 acres in five separate locations. More than 35 million tons of cargo passed through the entire port in 1976. More than half of this total was nandled by the State Docks.
- (2) Concern or Significance The Port of Mobile is very important to the economic stability of coastal Alabama and the entire state. In 1980 the State Docks generated operating revenues in excess of \$34 million with a net profit of \$9.5 million, almost double the net profit of the previous year.



A tremendous increase in port activity is expected in the near future because of industrial and energy development and especially the completion of the Tennessee-Tombigbee Waterway. The Port of Mobile will be the opening to the open sea for a large portion of cargo transported along this waterway.

A challenge certainly faces the port in order for it to reach its economic potential and still not destroy the coastal resources that are so vital to the character of the area. The port is directly dependent upon adequate facilities and navigation channels, necessitating channel construction and maintenance and disposal of dredge spoils. It is an area of urban concentration where shoreline and water uses are highly competitive.

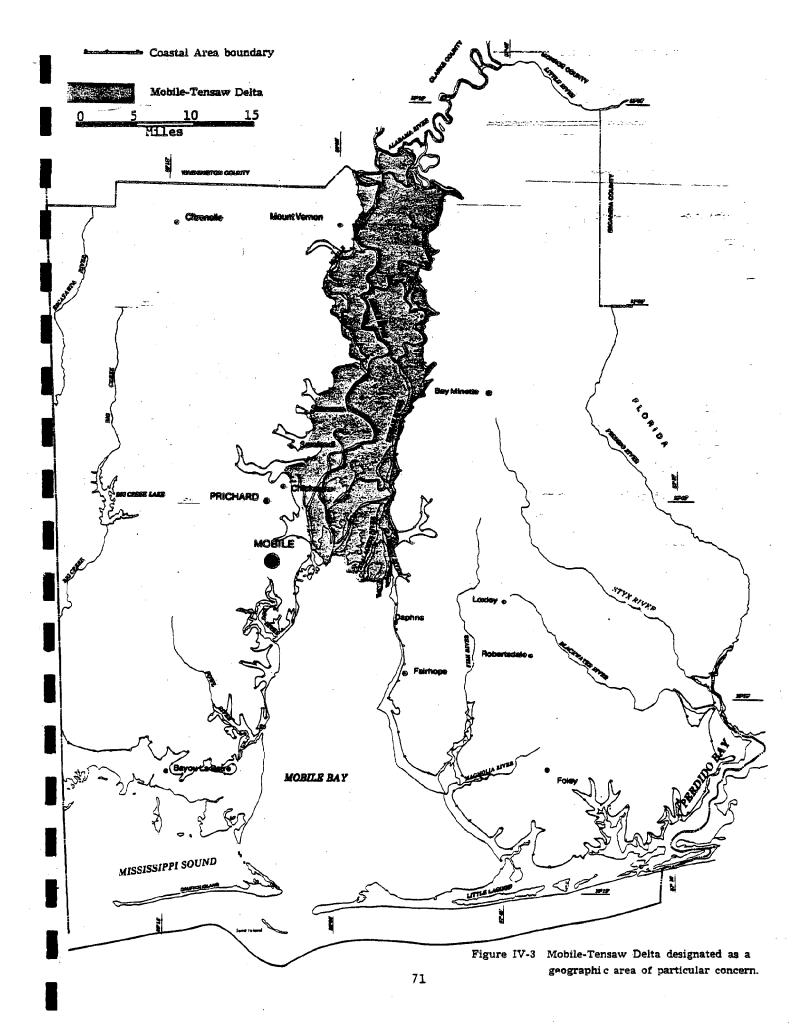
The designation of the Port of Mobile as a GAPC highlights the importance of the Port of Mobile to the economic stability of the Coastal Area and the State. The OSP will work within its own means to provide financial and technical assistance in developing programs to meet the demands on the Port of Mobile in coming years.

- (3) <u>Use Priorities</u> The following priorities of uses established for the Port of Mobile are listed from highest priority to lowest priority. Notwithstanding the use priorities described below, the Operational rules and Regulations of the ACAMP will apply to all uses undertaken within each GAPC.
- (a) Uses that are water-dependent and improve or promote port operations and development.
- (c) Uses that are not waterdependent nor water-related but improve and promote port activities.
- (b) Uses that are water-related and improve or promote port activities.
- Discouraged: Uses that significantly degrade or interfere with port operations.

#### b. Mobile-Tensaw River Delta

(1) <u>Description</u> - the Mobile-Tensaw River Delta extends from the confluence of the Tombigbee and Alabama Rivers to the delta-front deposits near the U.S. Highway 90 Causeway and the Interstate 10 Bayway. The delta opens into the northern end of Mobile Bay through the Mobile, Tensaw, Apalachee, and Blakely Rivers (Figure IV-3).

Although figures vary according to different sources, the 289 square miles within the delta are estimated to be composed of 20,323 acres of open water; 10,450 acres, fresh-mixed marsh; 69,348 acres, swamp; and 84,839 acres, mixed bottomland forest. The shoreline of the delta from the mouth of the Mobile River upstream to the Mobile-Washington County line is the location of many industries. A portion of this length, from the mouth of the Mobile River to Chickasaw Creek, is neavily industrialized. The causeway is lined with numerous small commercial businesses, but the remainder of the delta remains essentially undeveloped. The delta provides



recreational opportunities for many citizens, mainly hunting and fishing. Some lumbering activities also occur in this area.

(2) <u>Concern or Significance</u> - The delta is a very complex ecosystem which encompasses a rich, productive natural area as well as extensive and diverse wildlife and fishing habitats. The delta represents one of Alabama's most naturally preserved areas and has been placed on the National Register of Natural Landmarks.

The delta is not completely understood in terms of its vulnerability to urban stress. During the coming years it is anticipated that these stresses will become more intense with the expected growth of the area.

The major concern regarding the delta is the potential preemption of wildlife habitat and destruction of wetlands by various types of development. In view of the potential for increased activity in the delta associated with the completion of the Tennessee-Tombigbee Waterway, the need for properly managing this area through reasonable safeguards will become more acute.

Designation of the Mobile-Tensaw River Delta as a GAPC accentuates its importance to the Coastal Area. The OSP will cooperate with other agencies and groups to provide special assistance, both technical and financial, to cope with the stress on this area. Through these special studies a method can be developed to protect these wetlands and wildlife habitats and yet provide for economic growth of the Coastal Area.

- (3) Use Priorities The following use priorities for the Mobile-Tensaw Delta are listed from highest priority to lowest priority. Notwithstanding the use priorities described below, the Operational Rules and Regulations of the ACAMP will apply to all uses undertaken within each GAPC.
- (a) Uses that preserve, enhance, or protect the natural function of tidal and freshwater wetlands located in the delta.
  - located in the delta.

    In the delta and maintain the wetlands in necessary to provide natural functions.

    Discouraged: Uses that degrade the integrity and natural

(c) Uses of public or private

need that maintain the deltaic wetlands at a level

functions of the wetlands

levels.

in the delta beyond present

(b) Uses that are water-dependent and maintain the wetlands in the delta at a level necessary to provide present natural functions.

# 3. Procedure for Designating GAPC's

Section § 9-7-6 of the Alabama Code gives the OSP the authority to designate an area as a GAPC. The GAPC designations may be generic or site specific, and the procedure of designation of GAPC's is set forth in Section VIII, Administrative Rules and Regulations.

# B. Areas for Preservation and Restoration (APR)

The second type of special management area, areas for preservation and restoration, have been singled out based on criteria that they have very special conservational, recreational or ecological values. An APR designation indicates an area that deserves special regulatory emphasis in order to preserve the area in its natural state. As such, all uses that degrade an APR shall be discouraged.

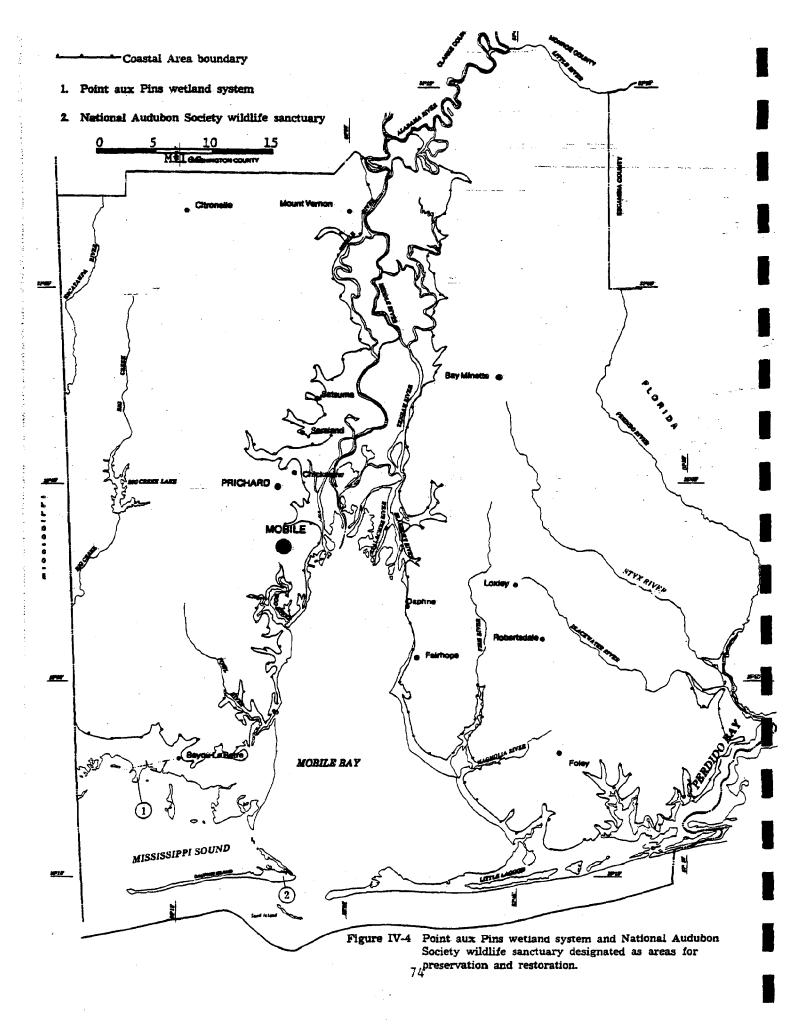
As the Coastal Area becomes more urbanized, the need for preserving certain natural areas becomes increasingly important. Through APR designation, the OSP (as designated by Section §9-7-6 of the Alabama Code will nelp to preserve these areas for future generations of Alabamians by providing financial assistance to maintain these areas in their natural state and technical assistance to cope with the many factors which could threaten these areas.

Two natural areas in coastal Alabama are presented for APR designation: Point aux Pins wetland system and the National Audubon Society Wildlife Sanctuary (Figure IV-4).

#### 1. Designated APR's

- a. Point aux Pins wetland system Probably the most pristine marsh/estuary remaining in the Alabama Coastal Area, the Point aux Pins area is an ideal location for coastal research. This area, located between Grand Bay and Portersville Bay, owned by the Board of Trustees of the University of Alabama, a corporation, for its divisions the University of Alabama in Birmingham and the University of Alabama, University, Alabama is operated by those two divisions as a research station and wildlife refuge. To establish baseline conditions for undisturbed Alabama marshland, this area is continually studied by researchers of the marine Environmental Sciences Consortium and other institutions. Adding to its educational value, this area serves as a habitat for many diverse plant and animal species. Because of its natural significance, the Point aux Pins area shall be preserved in its natural state. All activities which would degrade the natural state of this area shall be prohibited.
- b. National Audubon Society Wildlife Santuary Located on the eastern portion of Dauphin Island, this 159 acres has been preserved in its natural state. This area is owned by Mobile County and leased to the National Audubon Society for \$500 per year. The costs for any improvements to the sanctuary are provided by private contributions. With the current inflation spiral, it becomes increasingly costly to maintain the area as a sanctuary.

Besides providing a resting place for many species of migratory birds, the area serves as a habitat for many terrestrial and semi-aquatic species. Many individuals visit this sanctuary for varying reasons. It is a place to observe nature in its natural state, thereby contributing to the quality of life and general well-being of all citizens.



By designating this area as an APR, all activities which alter the natural state of this area shall be prohibited. The OSP will work within its own means with other agencies and groups to preserve this area in its natural state.

# 2. Procedures for Designating APR's

The procedure for designating an area as an APR is identical to the procedure for designating an area as a GAPC as set forth in Section VIII of Chapter Four, Administrative Rules and Regulations.

## V. REVIEW PROCEDURE

## A. Introduction

This section describes the procedure which is followed when reviewing uses that are subject to the management program. Alabama has a one stop permit review system which includes the ACAMP's consistency review process. Applications for permits to conduct most activities in the coastal area are submitted directly to the Alabama Department of Environmental Management (DEM) in Montgomery, Alabama, the agency responsible for program consistency determinations. Upon the receipt of such an application a single staff member is assigned as the coordinator. The coordinator is charged with the responsibility of routing the request through all applicable entities. However, as a part of its permit review process, DEM will make a determination as to the projects consistency with the Alabama Coastal Area Management Program, (at the beginning of the review process). Uses subject to the management program are divided into two categories for purposes of the DEM review process. (Figure IV-5).

 Regulated Uses — those uses which have a direct and significant impact on the coastast area and which require a state permit or which are required by federal law to be consistent with the management program.

Regulated uses in turn are subdivided into two categories for the review procedure:

- a. State All uses which have a direct and significant impact within the Coastal Area and which are required by law to obtain a permit from a state agency.
- b. Federal All uses which have a direct and significant impact on the Coastal Area and which are required by federal law to be consistent with the management program.
- 2. ACAMP Regulated Uses those uses which have a direct and significant impact on the Coastal Area and which do not require another state permit or which are not required by federal law to be consistent with the management program.

While reviewing applications submitted to the DEM, the DEM may, investigate an on-going or proposed use within the Coastal Area in order to determine whether such use is subject to the Management Program. If it is determined that the use is subject to the Management Program, the person or entity conducting or proposing the use shall be requested to submit the use for DEM review and to cease or postpone the use pending this review. If the DEM is unsuccessful in getting voluntary cooperation from the person or entity involved, legal remedies as described in Section VI, Monitoring and Enforcement shall be initiated.

With reference to all uses subject to management the purpose of the procedure which is set out below is for the DEM to make a

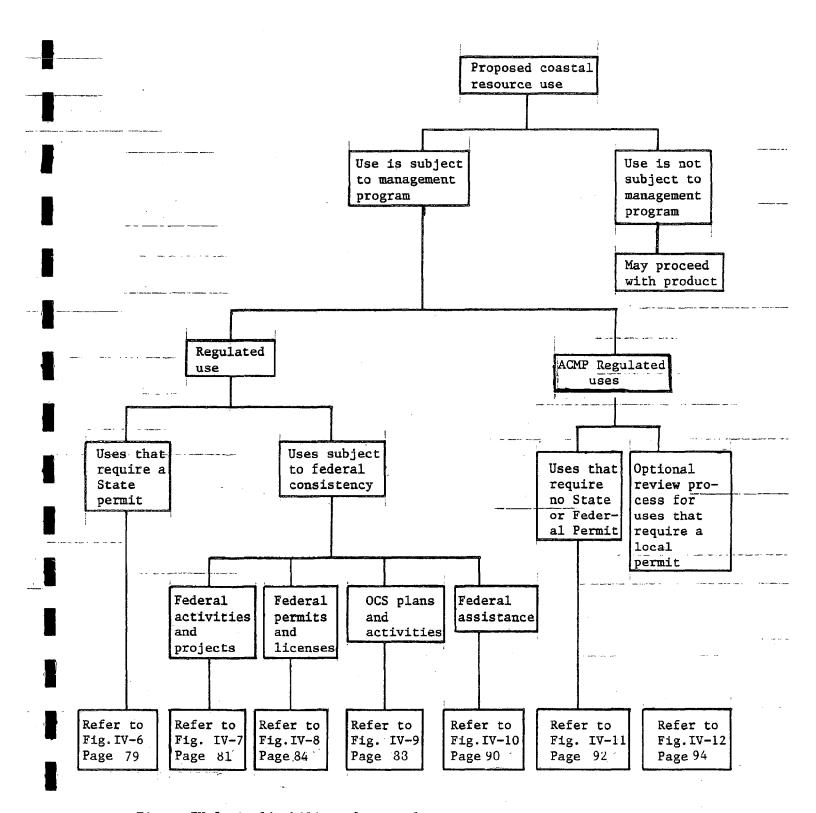


Figure IV-5 Applicability of coastal area management program

compliance, consistency, or permit decision. A compliance, consistency, or permit decision is a determination by the DEM of whether a use is consistent with the overall policies and purposes of the Management Program and whether it complies with all relevant rules and regulations.

A DEM decision may take any of the following forms:

- Review of interagency permit request and other state agency permits - issue or denial of certificate of compliance.
- Review of federal projects and activities concurrence with or objection to agency's Determination of Consistency;
- Review of federal permits concurrence with or objection to applicant's Certificate of Consistency;
- 4. Outer Continental Shelf Lands Plans concurrence with or objection to persons's Certificate of Consistency:
- Federal assistance to local government -- issuance or denial of Certificate of Consistency;
- 6. ACAMP Regulated Activity issuance or denial of permit or determination that activity is not subject to the management program;
- 7. Local permitting programs approval or disapproval of local permitting program.
- B. Review of State Agency Permits

#### General

No state agency snall give permission or issue a permit for an activity or use having a direct and significant impact within the coastal area unless the DEM has issued a certificate of compliance with the Management Program. In accordance with Figure IV-6, the state agency snall send an informational copy of the request or permit application to DEM within 10 days of receipt of such by the state agency. The DEM shall make every effort to make its determination of consistency within the time prescribed by law for the issuance of that state agency permit, but in any event the DEM shall issue its consistency determination within 45 days of the receipt of the information required to make its determination of consistency.

The DEM will coordinate with the state agency on any additional informational needs it may have as a prerequisite for issuing a certificate of compliance or denial.

a. The DEM issues Certificate of Compliance, or b. The DEM determines that the use is not subject to the management program.

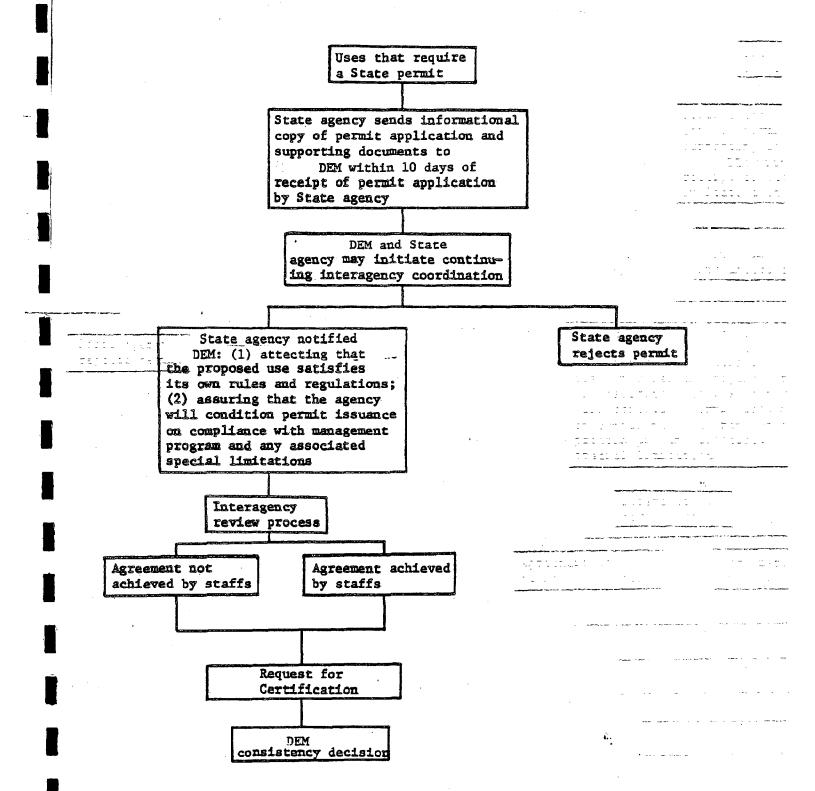


Figure IV-6 Review of State agency permits

The DEM review process includes a review of permits issued internally as well as state agency permits which are not under the immediate jurisdiction of DEM.

#### C. Federal Consistency

The following disucssions of federal consistency are intended to provide guidance to interested parties concerning the process that will be followed in implementing the federal consistency regulations, 15 CFR Part 930, adopted by OCZM pursuant to the Coastal Zone Management Act of 1972. In no case will the following descriptions relieve any person of the obligation of meeting the requirements of the federal consistency regulations.

# Review of Federal Projects and Activities

Pursuant to 15 CFR 930, Subpart C, federal agencies conducting or supporting uses directly affecting the Coastal Area are required to conduct or support those uses in a manner which is, to the maximum extent practicable, consistent with the Management Program. In order to exercise its authority under these sections, the DEM shall review for consistency all federal activities and development projects (Table IV-3) which have a direct impact within the Coastal Area (Figure IV-7) pursuant to provisions of Section 307 of the federal act.

As early as possible, the federal agency should notify the DEM of a proposed or ongoing federal project or activity which is subject to the management program. Upon receipt of this notice, the DEM will initiate interagency cooperation and attempt to identify particular information needs of the DEM.

Upon completion of its own investigation to determine if the use is consistent with the management program, and in no case later than 90 days before final approval of the use by the agency, the federal agency shall submit a Determination of Consistency to the DEM. This Determination shall contain a description of the use and a statement that the use is consistent to the maximum extent possible with the Management Program and will be conducted to the maximum extent practicable in a manner consistent with the management program. The Determination of Consistency shall not be considered complete until the DEM has received the information reasonably necessary to support a consistency decision.

After receiving the agency's Determination of Consistency, unless the DEM requests and receives an extension of time, the DEM shall, within 45 days, do one of the following:

- a. Concur with the federal agency's Determination of Consistency and issue a permit to proceed, or
- b. Object to the Determination of Consistency.

The issuance of a permit to proceed is a determination of consistency with the management program.

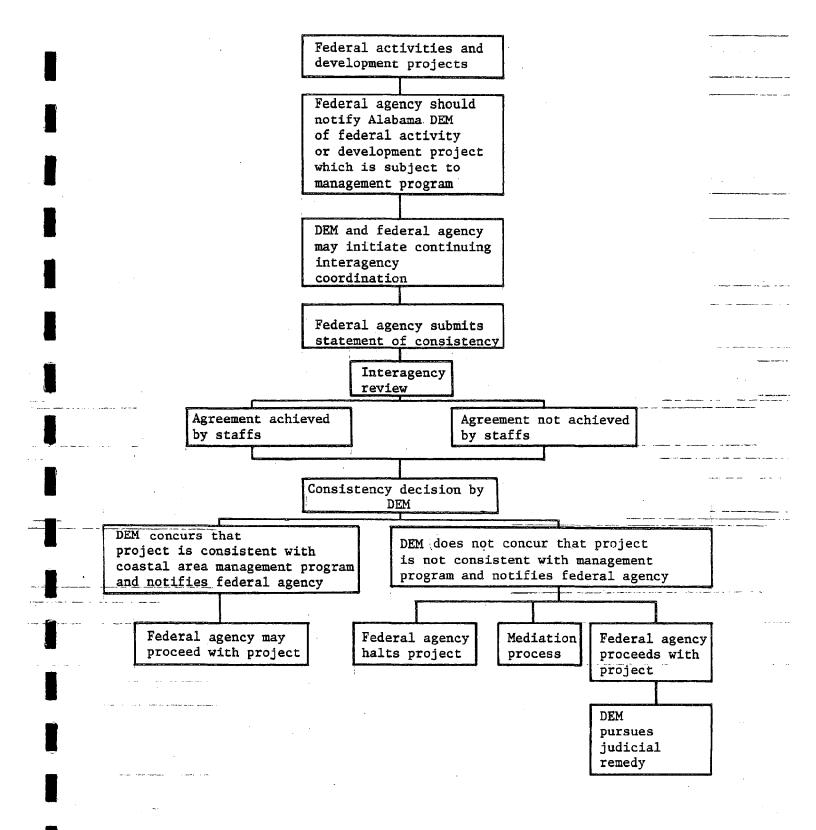


Figure IV-7 Review of federal activities and development projects for consistency

Table IV-3. Federal activities or development projects subject to consistency certification

- (1) Property acquisition or disposal (uses) within the Coastal Area:
- (2) Discharge of wastes into the air or water of the Coastal Area:
- (3) Road construction within the Coastal Area;
- (4) Disposition, design, construction, alteration or maintenance of any facilities on lands located within the Coastal Area:
- (5) Programs related to management of coastal resources:
- (6) Activities affecting water quality or quantity:
- (7) Activities affecting wetlands and wetland habitat areas:
- (8) The lease (use) of federal lands and water bottoms.
- (9) Storage, shipment, transhipment, or transfer of hazardous waste:
- (10) Fisheries management activities;
- (11) Pipeline construction and operation:
- (12) Dredge and fill operations;
- (13) The entrapment of waters:
- (14) Oil and gas exploration, production, storage and transfer activities;
- (15) Other activities that could directly affect coastal resources due to their size, location, or manner of construction.

In the event the DEM objects to the federal activity, it will enter into negotiations with the federal agency with the purpose of identifying alternative courses of action which would be consistent with the management program and which would satisfy the needs of the federal agency. If negotiations should break down, either party may request the mediation services of the Secretary of Commerce pursuant to 15 CFR Part 930, Subpart G. If mediation is refused or unsuccessful, the DEM may pursue resolution through the courts.

If the DEM becomes aware of a proposed or ongoing federal use which appears likely to have a direct impact within the management area and for which the federal agency has not submitted a Determination of Consistency, the DEM shall notify the agency that it is in violation of the management program and the consistency regulations. If such use is a federal activity that has not been listed in Table IV-3 as directly having an impact on the Coastal Area, the DEM will notify the relevant federal agency that the use is subject to the management program within 45 days of being notified of the use, except in cases in which the DEM does not regularly receive notice of the activity in question.

## 2. Review of Federal Permits

Pursuant to 15 CFR Part 930, Subpart D, uses which are federally licensed or permitted and which may have a significant impact upon the Coastal Area must be conducted in a manner consistent with the management program. Table IV-4 provides an exemplary list of permitted uses which will be reviewed by the DEM. The DEM may delineate, at a later date, other federally permitted uses that require DEM review in accordance with 15 CFR Part 930.54, Unlisted Federal License and Permit Activities. In order to exercise its authority under these regulations, the DEM shall review for consistency all federally licensed or permitted activities which may have a significant impact on the Coastal Area (Figure IV-8).

Immediately upon filing a permit application for a use subject to management, the applicant shall send an information copy of the application to the DEM along with any supporting documents and a consistency certification submitted by the applicant. Upon receipt of the application copy, the DEM shall initiate coordination with the federal agency (optional) and the applicant. Prior to an application being submitted to DEM technical studies should have been completed to enable DEM to make a consistency determination. However, in the event additional information is needed, it may be requested.

If at any time during the review process the DEM determines that the use is not subject to the management program, the applicant will be so notified as soon as practicable, and the DEM will no longer review the application.

As early as possible in the review process, the DEM will attempt to make known to the applicant the information needed in completing the review. The applicant shall facilitate this process by making

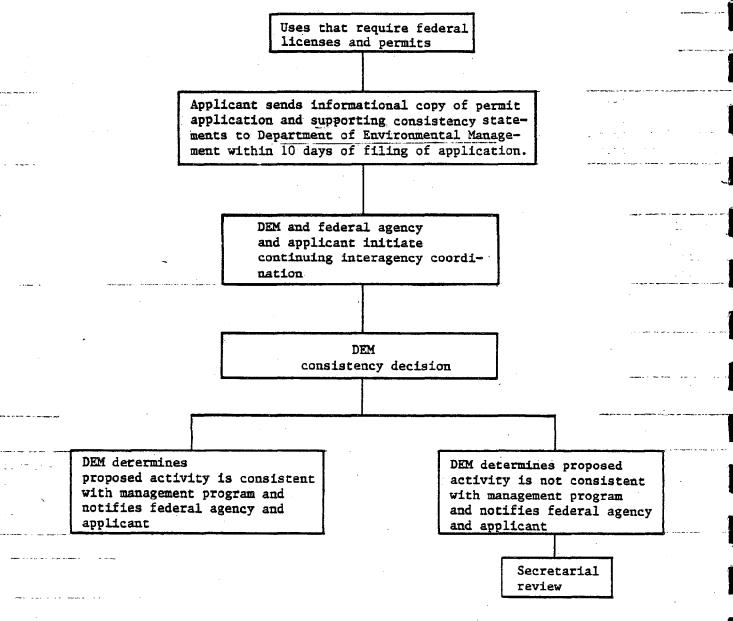


Figure IV-8 Review of federal licenses and permits for consistency

- 1. Permits required under ss. 10 and 11 of the River and Harbor Act of 1899, as amended.
- 2. Permits required under s. 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended.
- 3. Permits required under ss. 201, 402, 403, 404, and 405 of the Federal Water Pollution Control Act of 1972, as amended, unless such permitting activities pursuant to such sections have been delegated to the state pursuant to said act.
- 4. Permits required under the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 33 U.S.C., ss. 1401, 1402, 1411-1421, and 1441-1444.
- 5. Permits for the construction of bridges and causeways in navigable waters required pursuant to 33 U.S.C., s. 401, as amended.
- 6. Permits relating to the transportation of hazardous substance materials or transportation and dumping which are issued pursuant to the Hazardous Materials Transportation Act, 49 U.S.C., ss. 1801-1812, as amended, or 33 U.S.C., s. 419, as amended.
- 7. Permits and licenses required under 43 U.S.C., s. 717 for construction and operation of interstate gas pipelines and storage facilities.
- 8. Permits required under 15 U.S.C., s. 717, as amended, for construction and operation of facilities needed to import and export natural gas.
- Permits and licenses required for the siting and construction of any new electrical power plants as defined in s. 403.503(7), as amended.
- 10. Permits and licenses required for drilling and mining on public lands.
- 11. Permits for areas leased under the OCS Lands Act, as amended, including leases and approvals under 43 U.S.C., s. 1331, as amended, of exploration, development, and production plans.
- 12. Permits for pipeline rights of way for oil and gas transmissions.
- 13. Permits and licenses required for deep-water ports under 33 U.S.C., s. 1503, as amended.

known to the DEM as early as possible the results of its own investigation of the potential or actual impact of the use on the Coastal Area. The DEM may object on the ground that the applicant has not provided sufficient information to make an adequately informed response in which case the DEM shall describe in detail the information needed to make a response.

Except as provided hereinabove, within six months of receipt of the Certification of Consistency, the DEM shall do one of the following:

- a. Concur with the Certification of Consistency, with or without special limitations, or
- b. Object to the Certification of Consistency.

In the event that the DEM objects to the Certification of Consistency, the reasons and supporting details for the objection will be provided to the agency and the applicant, along with any alternative means to conduct the use consistently with the management program. The applicant may appeal the objection to the Secretary of Commerce. Following the DEM objection to the Certification of Consistency, the federal permit may not be issued unless the Secretary of Commerce overturns the DEM decision.

The DEM will work with federal agencies to develop memoranda of agreement where appropriate to facilitate and simplify the permitting of regulated uses within the Coastal Area.

# 3. Review of Activities Described in Outer Continental Shelf Lands Plans

Pursuant to 15 CFR Part 930, Subpart E, any entity that submits to the United States Secretary of the Interior any plan for the exploration of, or development of, or production from any area leased under the Outer Continental Shelf (OCS) Lands Act shall certify that activities described in the plan which affect the Coastal Area will comply with and will be conducted consistently with the management program (Figure IV-9). The DEM is given authority to concur with or object to activities described in the plan.

Prior to submission of an OCS plan to the Secretary of the Interior, any person submitting a plan must: (1) identify all activities which are subject to DEM review and (2) determine that the proposed activities are consistent with the management program. When submitting the plan, the entity must provide the Secretary of the Interior, with a Certification of Consistency. Within five days of such submission, the person shall provide the DEM with a copy of the OCS plan and a copy of the Certification of Consistency.

Following receipt of all necessary information as provided by 15 CFR 930.77, the DEM shall in cooperation with Mississippi and Louisiana review the plan for consistency. This review shall be based

information received pursuant to the Department of the Interior's operating regulations governing exploration, development and production operations on the Outer Continental Shelf, (30 CFR 250.34) and to regulations governing the Outer Continental Shelf information program, as well as any information requested by the DEM to be submitted by the applicant.

If at any time during its review the DEM determines that the plan is not subject to the management program, the person submitting the plan will be notified as soon as practicable, and the DEM will no longer review the plan.

Except as provided hereinafter, the DEM within the six months, shall do one of the following:

- a. Concur with the Certification of Consistency, with or without special limitations, or
- b. Object to the Certification of Consistency.

If the DEM fails to concur with or object to the Certification of Consistency within three months after receiving the Certification of Consistency and all supporting information, the DEM shall provide the Secretary, appropriate federal agency, and person submitting the OCS plan with a written statement describing the status of the DEM review and the basis for further delay in issuing a final decision. If such statement is not provided, concurrence by the DEM with the Certification of Consistency shall be conclusively presumed. If it becomes apparent to the DEM that it will not be able to complete its review within six months from the date of receipt of all necessary information, the DEM will attempt to obtain an extension of the review period beyond six months.

In the event that the DEM objects to the Certification of Consistency the reasons and supporting details for the objection to each activity shall be provided to the Minerals Management Service and applicant. The Department shall not issue any of such licenses or permits except as provided in 15 CFR 930, Subpart H, Secretarial Review Related to the Objectives and Purposes of the Act and National Security Interests.

In the event that the DEM objects to a Certification of Consistency, the DEM shall continue its coordination with the Department of the Interior to attempt to identify a means of conducting the use consistently with the managment program. If a serious disagreement develops, either the DEM or the Department may seek review by the U. S. Secretary of Commerce as provided in 15 CFR 930, Subpart H. If appropriate, a new or amended OCS plan along with a consistency certification may be submitted as well as data and information necessary to support this new consistency determination. As described above, new or amended OCS plans shall be reviewed by the DEM.

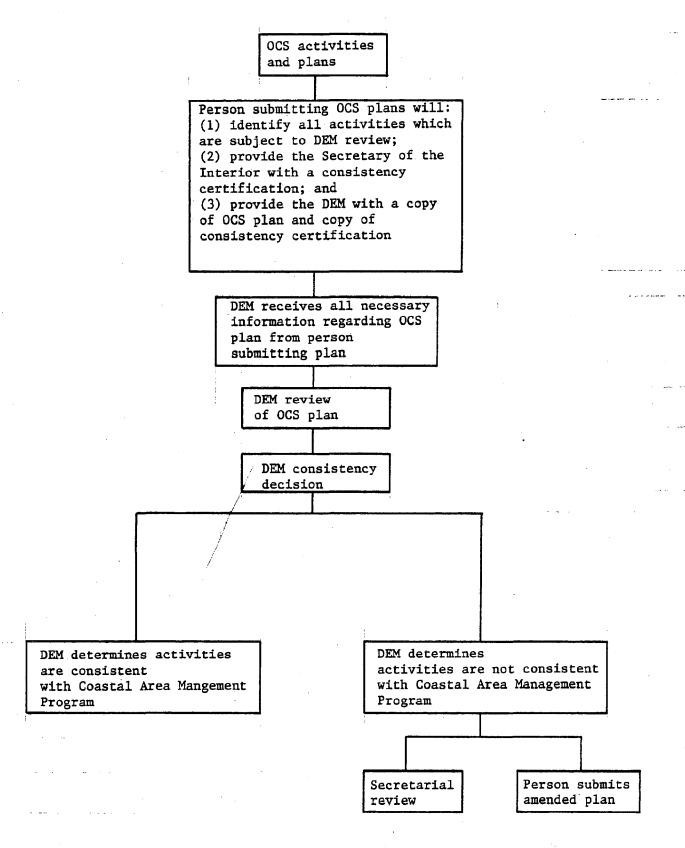


Figure IV-9 Review of OCS plans for consistency

# 4. Review of Federal Assistance to Local Governments

Pursuant to 15 CFR 930, as revised, federal assistance to state and local governments must be consistent with the management program to the extent that it significantly affects the Coastal Area. The OSF is the project notification agency for the State of Alabama for the review of assistance for consistency with the program (Figure IV-10).

Grant and loan applications to federal agencies completed after approval of Alabama's management program by the Secretary of Commerce are subject to federal consistency requirements. The OSP will use its existing State Clearinghouse review process to notify DEM of proposed activities that may have an impact on the coastal area.

The OSP (State Clearinghouse) will submit one copy of the request for assistance to the DEM and DEM shall make a determination consistency within 30 days. The DEM shall notify OSP of its finding and OSP shall notify the applicant of the issuance or denial of a certificate of consistency (concurrence). However, if additional information is needed DEM may request that information through OSP. Within thirty (30) days of the receipt of sufficient information the DEM (through OSP) will issue one of the following.

- a. Issue a Certificate of Consistency
- b. Deny a Certificate of Consistency

If the DEM determines that the project for which assistance is proposed is not consistent with the Management Program, the assistance itself will be determined inconsistent. If the DEM determines the assistance is consistent with the management program, it will so notify the OSP, and the OSP will notify the applicant and federal agency.

If the DEM determines the assistance is not consistent, negotiations between the OSP, DEM applicant, and involved agency will follow in an attempt to satisfy any disagreements. If, through negotiations, the disagreement is settled to the satisfaction of the DEM, it will so notify the OSP who in turn will notify the applicant that the assistance is consistent with the Management Program.

If, however, any serious disagreements cannot be settled to the satisfaction of the DEM, the OSP snall notify the applicant agency, the Federal agency, and the Assistant Administrator. This notification shall describe how the proposed project is inconsistent with the management program and alternative measures which might permit the proposed project to be conducted consistently with the management program.

Based on this information, the application shall be either modified to be consistent or funding shall be denied by the Federal Agency unless review by the Secretary of the Department of Commerce dictates otherwise.

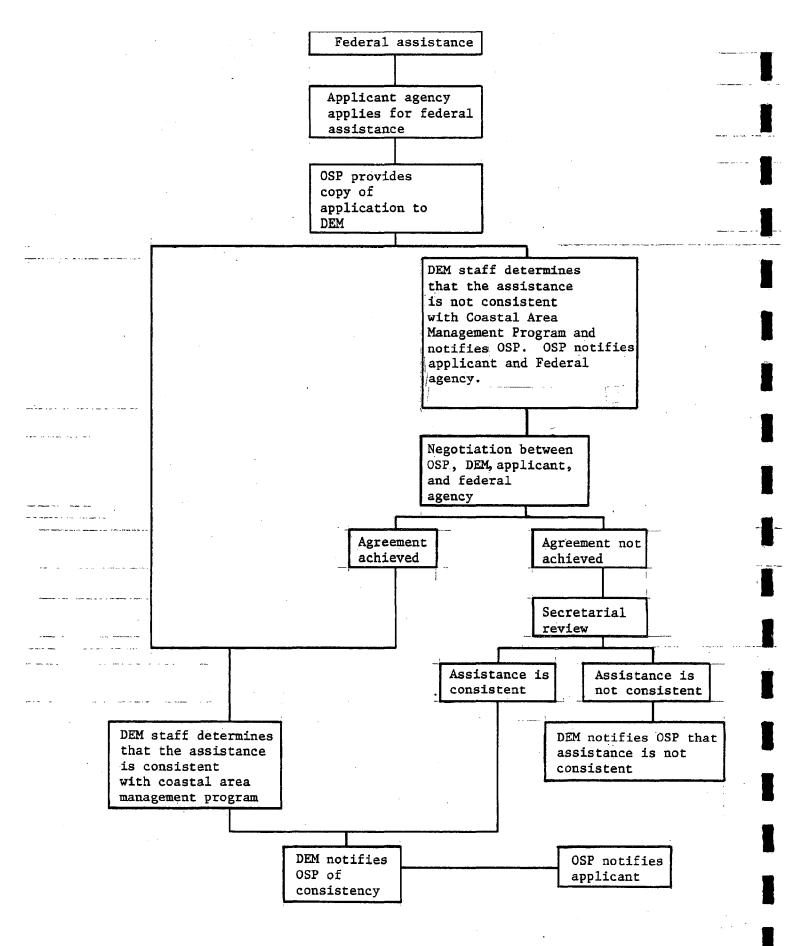


Figure IV-10 Review of federal assistance for consistency

# D. ACAMP Regulated Uses

Any person wishing to conduct a use which is not subject to another state agency permit in the Coastal Area it must make an application to the DEM for a DEM permit. ACAMP uses include: (a) construction setbacks on beaches and dunes and in the 100-year flood plain (2) septic tank construction and operation codes (3) extraction of ground water resources, and (4) any other uses which may have a direct and significant impact on the Coastal Area and which do not require another state permit or which are not required by federal law to be consistent with the management program. The review procedure is initiated by submission to the DEM of a completed application form supplied by the DEM (Figure IV-11).

Upon receipt of the application, the DEM shall begin its review process, shall inform the permit applicant of the information and studies which will be required, and shall give notice to the applicant of receipt of the application and of the availability of a public nearing upon request.

If the DEM finds during the course of its review that the use will not have a direct and significant impact within the management area, it will so notify the applicant, and the application will no longer be reviewed by the DEM.

Except as hereinafter set out, within 60 days from the date of receipt of the application for a permit, the DEM shall do one of the following:

- a. Issue a permit for the use with or without conditions, or,
- b. Deny the permit

If the magnitude of the use or the complexity of information gathering makes it impossible for the DEM to make an adequately informed determination within 60 days, the review period may be extended for no more than 60 days upon notice to the applicant prior to the expiration of the 60 day period. If the DEM does not make its determination to issue or deny the permit within 60 days, or within 120 days if the review period has been extended, the applicant may seek remedy through the courts.

A permit may be issued subject to any or all of the following limitations:

- a. Continued monitoring by the applicant and/or the DEM or its agent.
- b. Continued compliance with the Management Program.
- c. Specific changes in the means of conducting the use as set out in the application.
- d. Other limitations specified by the DEM.
- E. Users Subject to the Management Program Local Permitting Programs (Optional)

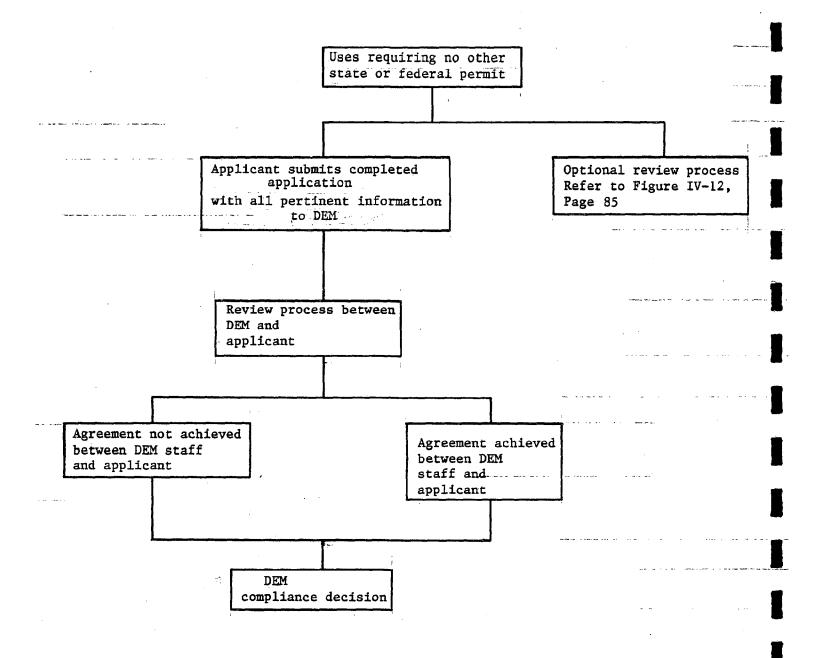


Figure IV-11 Review of uses that require no state or federal permit

Counties and municipalities are encouraged to exercise effectively their responsibilities in the Coastal Area through the development and implementation of administration programs to achieve wise use of the land and water resources of the Coastal Area. The following permit review process is offered as an option to local governments to avoid duplication in permitting and to allow local governments to play a meaningful role in the Coastal Area Management Program. By taking advantage of this option, local governments could exercise more direct control over permitting within their jurisdiction and become eligible for available 306 funds to enforce aspects of their codes that pertain to Coastal Area Management.

Any local government issuing permits for uses which may have a direct and significant impact on the Coastal Area may submit a rule, regulations, ordinance, plan, map, code, or any other device (hereinafter referred to as a local code) it uses to issue licenses and permits to the DEM to obtain a DEM approval. The DEM may approve the local code with or without modification whereupon the local government may administer the local code in a manner consistent with the management program.

To apply for DEM approval, the chief executive officer of the local government shall make a written application, on forms supplied by the DEM, and attach a copy of the existing code or a copy of a completed draft of a proposed local code (Figure IV-12). Upon receipt of the application, the DEM shall give public notice, including notice to the local government, of the receipt of the application and of the opportunity for a hearing. The DEM shall also begin its review process, initiate interagency coordination with the local government, and shall inform the local government of the type of information needed to make an informed DEM decision.

As expeditiously as possible, and in no event later than six months from receipt of the application, except as hereinafter set out, the DEM shall do one of the following:

- a. Approve the local code with or without conditions, or
- b. Disapprove the local code.

If the local government has not supplied adequate information for the DEM to make an adequately informed determination, or if the complexity of the uses licensed or permitted pursuant to the local code makes it impossible for the DEM to make an adequately informed determination, or if the complexity of the uses licensed or permitted pursuant to the local code makes it impossible for the DEM to make an adequately informed determination, the period of review may be extended for a period of no more than three months upon notification to the chief executive officer of the local government.

In order to be approved, it must be demonstrated that the local code shall be enforced in such a way that uses undertaken pursuant to licenses and permits issued pursuant to it will be in compliance with the management program. If a determination is made not to approve a local code, the reasons and supporting details for the disapproval of

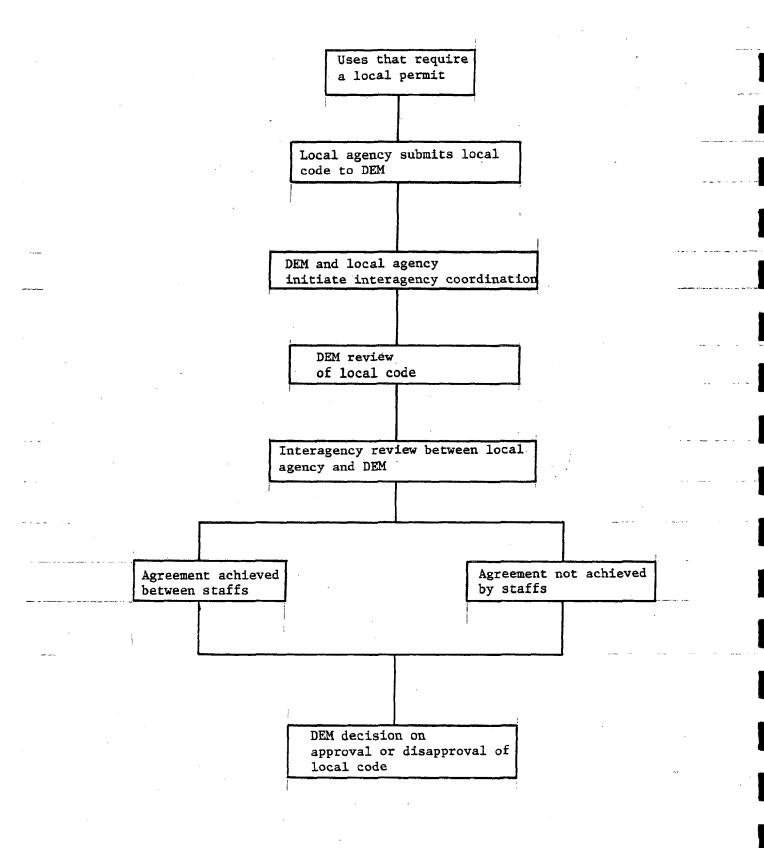


Figure IV-12 Optional reveiw process for uses that require a local permit

the local code shall be given to the chief executive officer of the local government along with alternative means to comply with the Management Program.

DEM approval remains valid until one of the following occurs:

- a. The DEM, on its own initiative, determines that the local code is not enforced as approved.
- b. The local government fails to resubmit the local code after three years from the last date of approval.
- c. DEM determines, after resubmission of a local code for approval that it is no longer in compliance with the Management Program, and determines not to approve the local code as described in the application. application.

Once a local code has received DEM approval, an application for a license or permit to conduct a use pursuant to that local code is not subject to the management program, except as set out in this subsection. A local code may be resubmitted for DEM approval three years after the last date of approval. Review of a local code for reapproval shall follow the same procedure set out above. Once a local code has been submitted for reapproval within the prescribed time frame, permits and licenses may continue to be issued pursuant to the local code pending DEM review.

Under the local code review option, the chief executive officer of the local government shall forward to DEM any amendment made to an approved local code within two weeks after adoption, or a proposed amendment may be submitted to the DEM prior to adoption. DEM shall then determine whether the amendment is in compliance with the Management Program as expeditiously as possible. Such determination shall be made within six months of notification by the executive officer, unless the local government fails to provide adequate information, or the complexity of information needed makes it impossible for DEM to make an adequately informed determination within six months, in which event DEM review period may be extended for a period of no more than three months upon notice to the executive officer prior to the expiration of the six months period.

# Status of Local Government Permitting

Several coastal regulated uses have been assumed by local governments since the approval of the management program in 1979.

# a. Floodplain and Storm Management

Baldwin County, Mobile County, and the City of Gulf Shores each implemented the federal flood insurance program within their jurisdictions. This covers the entire high hazard area of the Coastal Area. Additionally, each of these jurisdictions has adopted improved high nazard building codes to provide better protection against nurricanes and other storm events. These codes were developed through the management program following Hurricane Frederic.

# b. Dune Protection

The City of Gulf Shores adopted and implemented the dune protection program within its jurisdiction. The DEM retains administration of this program in the remainder of Baldwin County and Mobile County.

#### SECTION VI. MONITORING AND ENFORCEMENT

The DEM recognizes the importance of continued monitoring of uses in the Coastal Area and the enforcement of the ACAMP for the successful achievement of the policies and purpose set forth by the Alabama legislature in \$9-7 as amended by Act 82-612. This section describes the varous monitoring and enforcement alternatives that are available to the DEM in implementing the management program.

#### A. Monitoring

The DEM will monitor the conduct of uses which have been prevously reviewed by the DEM to insure that they are carried out in a manner which is consistent with the management program (Figure IV-13).

The DEM has several approaches that it can use in monitoring these uses:

- 1. Periodic surveys or inspections. The DEM or other permitting agencies will inspect uses periodically through site visits, biological sampling, or other appropriate techniques.
- 2. Aerial survey. The DEM may conduct aerial surveys where appropriate to verify the manner in which a use is being conducted.
- 3. Memoranda of Agreement. The DEM will enter into a memoranda of agreement with other agencies to monitor uses which are subject to the management program.
- 4. Compliance Monitoring. The DEM will review data submitted to it or the permit agency by persons conducting uses in the Coastal Area to determine if the use is in compliance with the management program as a result of conditions placed upon the use during permit review.
- 5. Biological Baseline Analyses. The DEM will develop a biological baseline to determine present levels of plants and animals and will conduct biological monitoring to detect changes in the levels of plants and animals of the Coastal Area. This monitoring activity will be in addition to other monitoring required by the management program as a result of a DEM review. This activity will be coordinated with other state and local agencies so that duplication can be kept to a minimum.

The DEM will also carry out a monitoring program to identify those uses subject to the management program which have not been submitted to the DEM for review. Along with the monitoring activities described above, the DEM will review all available sources of information to identify such activities, e.g. newspaper articles, agency reports, and information from private citizens (Figure IV-14). Monitoring programs will be coordinated and integrated within the DEM.

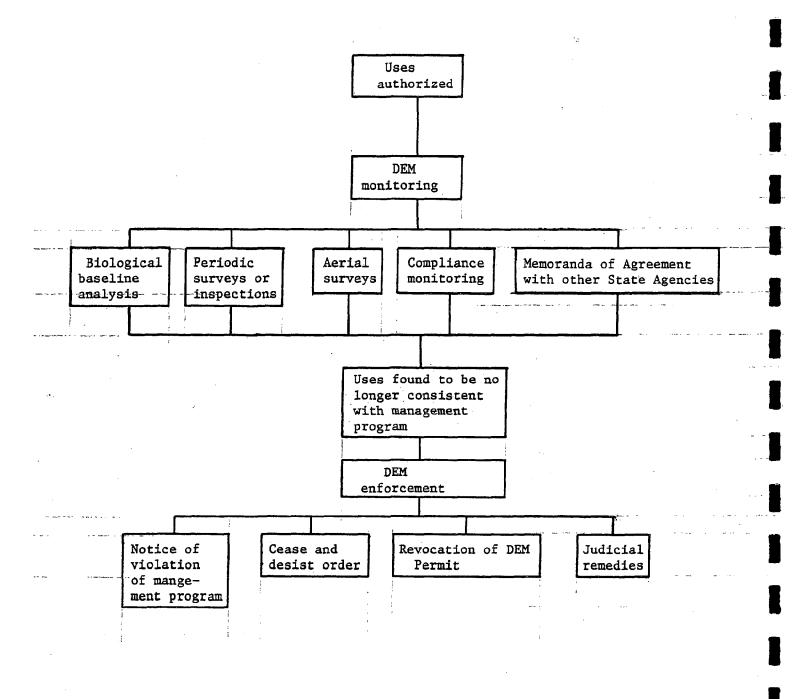


Figure IV-13 Monitoring and enforcement of uses.

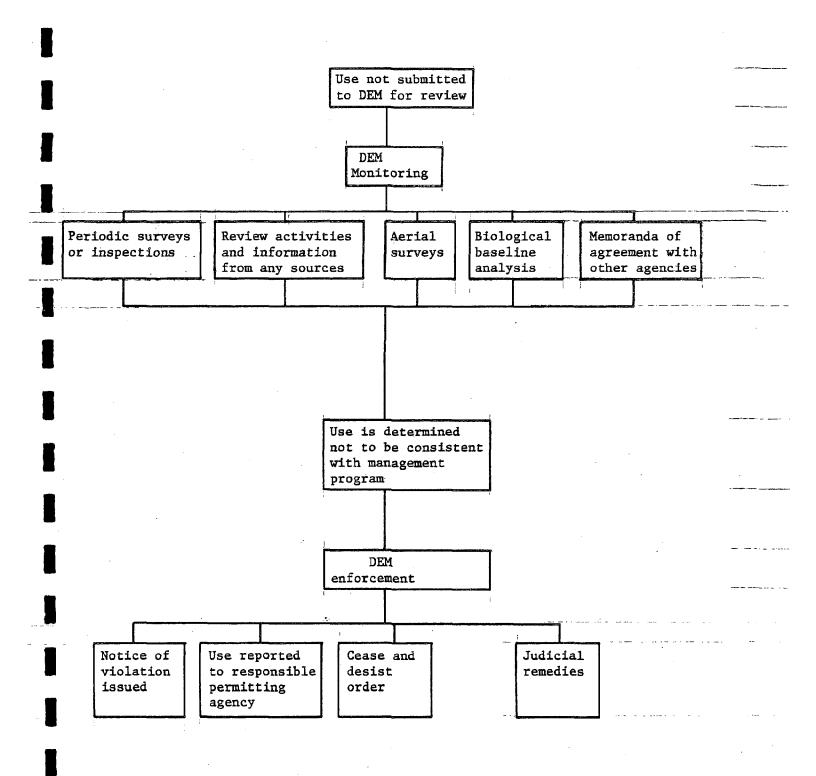


Figure IV-14 Monitoring and enforcement of uses not submitted to DEM for review

# B. Enforcement

If uses which are not in compliance with the management program are identified through the DEM's monitoring activities, the DEM will pursue remedies available to it under Act 82-612. The following paragraphs describe the various remedies which have been identified as enforcement mechanisms.

- 1. Notice of violation of the management program The DEM's initial step in enforcement will be to inform the user that his action is not in compliance with the management program. The DEM will then work with the user to determine what corrections can be made in his operation that will bring the use into compliance with the management program.
- 2. Cease and desist order If the DEM determines that the use is causing degradation of the Coastal Area, the DEM will require the operation to be brought into compliance within a specified period of time, and if this requirement is not met the DEM may issue a cease and desist order until the use can be brought into compliance with the management program.
- 3. Revocation of DEM Certification of Consistency. If the use cannot be brought into compliance with the management program or if the user refuses to modify the use in a manner which will be in compliance with the management program, the DEM may revoke its permit (Figure IV-13).
- 4. Judicial remedies The DEM may pursue the judicial remedies set forth in Act 82-612 and other applicable state codes to obtain compliance with the management program.

# SECTION VII. OPERATIONAL RULES AND REGULATIONS

Coastal Alabama is an area of opportunity and high growth potential, and the attractiveness of the Coastal Area for tourism, recreational development, and industrial development has brought with it competition for the finite and sometimes fragile coastal resources which are located in the area. The legislature recognized the variety of rich natural, commercial, recreational, industrial, and aesthetic resources and the need for the State of Alabama to effectively manage the allocation of these finite resources so that they best serve the present and future interest of the citizens of the State. The legislature specifically recognized the need to protect fragile natural resources on one hand and to provide for efficient development of the Coastal Area on the other.

The achievement of balance which provides economic development and the protection of natural resources has been the expressed goal of the DEM, and the DEM will pursue this balance with vigor in the implementation of the management program.

The DEM will work for permit simplification to ensure predictability in permit issuance and to provide technical information in support of economic development. Although the impetus for economic development is in the hands of the private sector and the DEM recognizes and supports the rights of private property owners, the DEM shall assist, encourage, and foster the economic development which is necessary for the well-being of the citizens of Alabama.

The rules and regulations presented in this section have been prepared to address issues which have been identified in technical studies by the DEM and other state and federal agencies. These rules and regulations are proposed as a part of the Coastal Area Management Program, and once adopted, these rules and regulations will be used by the DEM in implementing the Coastal Area Management Program.

# A. Existing Laws, Rules and Regulations

A number of statutes and regulations, both state and federal, relate to the development and preservation of resources within the Coastal Area. The enforcement of these statutes and regulations constitute an integral part of the operation of the management program. To be consistent with the management program, the use must comply with all the relevant substantive requirements of any of the following state or federal statutes and any regulations adopted pursuant to these statutes to the extent applicable under the terms of those statutes or regulations:

- a. The Rivers and Harbors Act of 1899, as amended (33 U.S.C. 401 et seq.):
- .b. The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1376):
- c. The National Flood Insurance Program Act, as amended (42 U.S.C. 4001 et seq.);
- d. The Clean Air Act, as amended (42 U.S.C. 7401-7626);

- e. Marine Mammals Protection Act of 1972:
- of. Endangered Species Act of 1972;
- g. National Historic Preservation Act of 1966 (16 U.S.C. 270):
- n. National Environmental Policy Act of 1969 (42 U.S.C. 4321):
- i. Outer Continental Shelf Lands Act of 1966, as amended;
- ij. Archeological and Historic Preservation Act of 1974, as amended;
- k. Alabama Code Sections 9-15-1-53, (1975);
- The Baldwin County Wild Sea Oats Act (Alabama Regular Session 1973, Act 971);
- m. The Baldwin County Sand Dunes Protection Act (Alabama Acts 1973, Act 775);
- n. Mobile County Island Beaches and Dunes Preservation Act (Alabama Regular Session 1975, Act 1096);
- o. Alabama Code Sections 9-14-1--29 (1975) (state parks);
- p. Alabama Code Sections 23-1-1-228 (1975) (public access provisions of highway code):
- q. Alabama Code Sections 11-9-1-24 (1975) (flood prone areas):
- r. Alabama Code Sections 22-27-2-7 (1975) (solid waste disposal);
- s. Alabama Code Sections 22-22-1-14 (1975) (water improvement)
- t. Alabama Code Sections 22-28-1--23 (1975) (air pollution control);
- u. Alabama Code Sections 9-11-1-398 (1975) (fish, game and wildlife)
- v. Alabama Code Sections 9-12-1-184 (1975) (marine resources);
- w. Alabama Code Sections 41-9-240--259(1975) (historical preservation); and
- x. Alabama Code Sections 41-3-1-6 (1975) antiquities);
- y. Hazardous Waste Disposal Act (1978) (State and federal);
- z. Alabama Code Sections 2-27-1-16 (1975) (registration, sale, and use of pesticides);
- aa. Alabama Code Sections 2-27-50--65 (1975) (application of pesticides);
- bb. Alabama Code Sections 9-2-2 (1975) (state-owned lands, and submerged lands);
- cc. Alabama Code Sections 9-2-120 (1975) (state-owned islands);
- dd. Alabama Code Sections 9-3-4 (1975) (forest resources):
- ee. Alabama Code Sections 22-23-1--54 (1975) (water supplies);
- ff. Alabama Code Sections 22-26-1--6 (1975) (sewage);
- gg. Alabama Code Sections 9-8-25--30 (1975) (erosion control)
- nh. Alabama Act 82-612 (1982) Environmental Management Act.
- ii. Alabama Code Sections 22-22A-1 (1975) (Hazardous Waste)
- jj. Coastal Barrier Resources Act Public Law; 97-348 (1982) Development Control)

#### B. General Rules and Regulations

An agency shall not issue a permit for an activity or use within the coastal area until the DEM has determined that the activity or use is consistent with the Alabama Coastal Area Management Program.

1. The approval by the DEM of any regulated user or use subject to the Management Program or the issuance of any DEM permit is conditional upon continued compliance with the management program. In addition, the DEM may impose such relevant conditions upon the

DEM Approval as it deems appropriate to assure compliance with the management program.

2. Uses that are determined by the DEM to degrade the Coastal Area snall not be permitted nor certified to be in compliance or consistent with the management program unless the DEM determines that there is a compelling public interest. If uses of a compelling public interest are permitted by the DEM, these uses shall be undertaken in a manner that, to the maximum extent practicable, minimizes degradation of the Coastal Area.

Degrade means to affect the Coastal Area in a manner that produces a continuing reduction or destruction of present levels of coastal resources. A compelling public interest is something more than mere convenience. It is a right recognized at law, or an economic, environmental health, or social interest shared by most persons in the Coastal Area, which if not recognized and protected, would jeopardize the public wellbeing. The burden of proof that a particular use is of compelling public interest shall be upon the applicant. The DEM shall consider: (a) significant national interest such as energy facilities or uses which improve water quality, air quality or wetlands; (b) enhancement or protection of geographic areas of particular concern and areas of preservation and restoration, such as construction or improvement of facilities in the Port of Mobile: (c) significant economic benefit for the Coastal Area; (d) water dependency; and (e) other similar factors in any determination of compelling public interest and balance its significance in each case in relation to the ability of the use to meet the DEM's rules and regulations. each review the DEM will make a determination of whether the use is, on balance, consistent with the management program.

3. Applicants seeking DEM approval of major projects which may have a direct and significant impact shall show, to the satisfaction of the DEM the impacts of the proposed use on the following coastal resources:

Water Quality
Air Quality
Wetlands and Submersed
Grassbeds
Beaches and Dunes
Wildlife Habitat
Biological Resources

Cultural Resources
Public Access
Shoreline
Flood and Hurricane Mitigation
Areas
Water Resources
Associated Land Uses
Other coastal resources

This information shall be provided as soon as possible after the initial permit application, but in any event, the information shall be provided prior to any request for DEM approval.

Documentation of impacts developed pursuant to the National Environmental Policy Act (NEPA) or pursuant to the requirements of any other state or federal agency shall be accepted by the DEM under this requirement. However, such acceptance shall not relieve the applicant of the responsibility for providing the DEM

with the documentation of additional impacts not covered in the original documentation, as specified by the DEM.

- 4. The procedures presented in Section V, Review Process, and Section VI, Monitoring and Enforcement, shall be followed by the DEM in reviewing uses subject to management and monitoring and enforcing the DEM's rules and regulations.
- 5. If the DEM finds that an imminent peril to the public health, safety or welfare requires immediate action without adherence to the procedures set out in the management program, the DEM may proceed to approve such proposed emergency actions without prior notice or hearing. Such emergency approvals shall be effective without the approval of the Governor and shall be effective for a period of no longer than 120 days.
- 6. The General Rules and Regulations of the DEM shall determine the scope and applicability of the Coastal Resource Use Rules and Regulations and Natural Resource Rules and Regulations of the management program.
- C. Coastal Resource Use Rules and Regulations
- 1. DEM Regulations for Siting, Construction, and Operation of Energy Facilities

The DEM presents the following process which will allow the orderly growth of energy development within the coastal area.

a. Persons wishing to construct energy facilities which may have a direct and significant impact on the Coastal Area must submit an "Energy Facility Construction and Operation Plan" to the DEM which shall identify the impacts of the proposed energy facility on the following coastal resources:

Water Quality
Air Quality
Wetlands and
Submersed Grassbeds
Beaches and Dunes
Wildlife Habitat
Biological Resources

Cultural Resources
Public Access
Shoreline
Flood and Hurricane
mitigation areas
Water Resources
Associated Land Uses
Other coastal resources

- b. The DEM will use the Energy Facility Construction and Operation Plan as a basis for the certification decisions on proposed projects.
- c. Siting, construction, and operation of energy facilities that degrade the Coastal Area shall not be permissible.
- d. All energy facility siting, construction, and operation must meet the requirements established in other sections of the DEM Rules and Regulations.

# 2. DEM Regulations for Dredging and Filling

- a. Dredging and filling operations shall not be permissible if such activity is determined by the DEM to degrade the Coastal Area.
- b. Because of their detrimental effect on coastal water quality, new dead end canals shall not be permissible in the Coastal Area unless it is determined by the DEM that such activity will not degrade the Coastal Area.
- c. Proposed channel construction or channel maintenance providing access to exiting or approved docks, marinas, yacht basins or other water dependent facilities shall be permissible only if there are no other reasonable means of access to such facilities.
- d. Dredge spoil materials shall be deposited in upland areas or in offshore Gulf of Mexico areas unless it is determined by the DEM that the dredge spoil material may be used in another manner that will not degrade the Coastal Area.
- e. No dredge spoil, fill, or other foreign solid materials shall be deposited in waters of the Coastal Area unless it is determined by the DEM that such deposition will not degrade the Coastal Area.
- f. Normal maintenance dredging of existing channels shall be permissible if the dredging operation maintains the channel within the original design specifications. The disposal of dredge spoil materials from such operations shall be in conformance with section 2(d) and 2(e) above.

# 3. DEM Regulations for Shoreline Erosion

- a. Any use intended to mitigate a shoreline erosion problem in the Coastal Area shall use non-structural erosion control methods to the maximum extent practicable, including but not limited to preservation and restoration of dunes, beaches, wetlands and submersed grassbeds, shoreline restoration and nourishment.
- b. The placement of groins, jetties, and breakwaters as erosion control devices shall be permissible only when no other technically feasible alternative means of control is available and it is determined by the DEM that there would be no substantial harm.

#### 4. DEM Regualtions for Public Access

a. All public projects proposed for location with the Coastal Area shall to the maximum extent practicable provide visual and physical public access to Alabama's coastal waters, and all non-public activities are encouraged to provide for visual and physical access as well.

# 5. DEM Regulations for Natural Hazard

- a. All development shall be designed, located, constructed, and operated in a manner that avoids:
  - (1) Significantly increasing the potential for flood, hurricane, or other storm damage or increasing the likelihood that damage will occur from floods, hurricanes, or storms.
  - (2) Significantly reducing floodwater storage capacity.
- b. Public works projects should not facilitate or encourage development in the 100-year flood plain as mapped under the Flood Insurance Program.
- c. The use of the 100-year flood plain for conservation or basic recreational use is strongly encouraged.
- d. All development proposed for a coastal location which is vulnerable to hurricane surge and wave attack shall be designed, located, constructed and operated in a manner which will not significantly increase the potential damage resulting from a hurricane.

# 6. DEM Regulations for Solid Waste Disposal

- a. Solid waste disposal sites shall not be permissible in wetlands, beaches or dunes.
- b. Solid waste disposal sites shall not be permissible in any location where the disposal of solid wastes would degrade wetlands, beaches, dunes or coastal waters.
- c. Solid waste disposal sites shall be located outside the boundaries of the Coastal Area, unless no other reasonable alternative is available. If a site within the Coastal Area is proposed for development as a solid waste disposal site, it shall be demonstrated to the satisfaction of the DEM that siting, design, construction, and operation will ensure that present levels of coastal plants and animals will be maintained.

#### D. Natural Resource Rules and Regulations

# DEM Regulations for Water Quality

#### a. New Point Source Discharges

The following requirements will be imposed upon new point source discharges into the coastal waters of Alabama in addition to existing state and federal water quality regulations.

- (1) Before a project begins, the permit applicant wishing to discharge into coastal waters will test the impact of its discharge upon various plants and animals to determine the impact of its discharge upon the plants and animals of the Coastal Area. The plants and animals to be considered and the type of toxicity tests to be required will be determined by the DEM in light of the quantity and nature of the effluent.
- (2) The permit applicant will determine the present levels of plants and animals at the point of discharge within a Discharge Information Zone (DIZ). The Discharge Information Zone will be a circle with a radius of 400 ft. The center of DIZ will be the discharge point. The DEM may modify the application of the DIZ concept based upon technological advances if it determines that these changes will enhance the Coastal Area program. This testing program will consist of the following:
  - (a) Characterization of the bottom sediments of the DIZ.
  - (b) Biological characterization within and around the Discharge Information Zone (DIZ) through the collection and analysis of biological species as specified by the DEM.
- (3) Once the applicant for a regulated use has determined present levels of plants and animals, these present levels will form the basis for measuring adherence of the use with the water quality standards of the management program. The use will not be in compliance with the management program if it results in degradation at the perimeter or outside of the DIZ.

#### b. Monitoring New Point Source Dischargers

If the DEM approves a regulated use and the regulating agency issues a permit or otherwise approves the discharge into coastal waters, the following procedure shall be followed to assure compliance.

- (1) The discharger shall continue to take samples as specified by the DEM to determine the impacts of the discharge on the biology of the DIZ.
- (2) Monitoring reports shall be furnished by the discharger to the DEM on a monthly basis or as otherwise agreed to by the DEM.
- (3) The discharger shall not allow the biological damage to occur at the perimeter of or outside the DIZ.

- (4) If the biological monitoring shows evidence of biological damage at the perimeter or outside of the DIZ, the DEM shall notify the discharger that he is in violation of the Coastal Area Management Program.
- (5) Upon receipt of the violation modification from the DEM, the discharger shall provide the DEM with a plan to correct and eliminate the biological damage caused by the discharge.

# c. Existing Point Source Dischargers

- (1) The results of the biological sampling program for existing dischargers shall be provided to the DEM at the time that waste discharger's NPDES permit comes due for renewal.
- (2) Every existing discharger with a discharge over 1 MGD shall be required to determine the extent of the impact of the discharge on the biology of the coastal waters by conducting biological sampling, as specified by the DEM, from the outfall point to a sufficient distance up and downstream from the outfall to indicate where their discharge ceases to have an impact upon the plant and animal life of the receiving waters.
- (3) The results of the biological sampling will determine "present levels" of biological activity. Present levels will be the standard which existing dischargers must meet.
- (4) Existing dischargers are not required by the regulations of the management program to reduce their present area of degradation. Existing industries which degrade a smaller area than the DIZ will be able to expand their area of degradation to the edge of the DIZ. Dischargers which presently degrade an area larger than the DIZ will be required to control their effluent so that it does not destroy plants and animals outside the present area of degradation.

#### d. New Non-Point Sources

- (1) Construction Activities
- (a) Developments greater than 25 acres in size will obtain a permit from the DEM before starting construction.
- (b) The developer shall submit an erosion control plan to the DEM as part of its permit application. The erosion control plan must show the Best Management Practices (BMP's) which will be used to control erosion before, during, and after construction.

- (c) The following BMP's are recommended for controlling runoff from construction and new developments. Permit applicants shall implement these BMP's to control erosion to the maximum extent practicable.
- a. Mulching
- b. Sodding
- c. Diversion berms
- d. Sedimentation catch basins
- e. Clean up practices
- f. Recreational area storage
- g. Diversion structures
- h. Aeration of soils
- i. Ponds
- j. Detention basins
- k. Porous pavements
- 1. Holding tanks
- m. Infiltration systems
- n. Channel storage
- Minimize disturbed land area
- p. Minimize the duration of exposure to natural elements
- q. Retain natural vegetation

# (2) Stockpile Materials

- (a) Runoff from raw material stockpiles or a series of stockpiles of a size of five acres and above shall be controlled to ensure that it does not degrade the Coastal Area.
- (b) Owners of new material stockpiles shall submit to the DEM a "Raw Materials Stockpile Plan" which demonstrates that runoff from the stockpile will not degrade the Coastal Area.

#### 2. DEM Regulations for Wetlands and Submersed Grassbeds

- a. Before undertaking any project in wetlands or submersed grassbed areas, the applicant must demonstrate to the satisfaction of the DEM that the proposed activity will not degrade the natural function of the wetlands or submersed grassbeds to support present levels of plants and animals, act as a buffer against storm surges, or any other natural functions.
- b. The DEM may accept the replacement or creation of an amount of wetlands equivalent to that necessary to support present levels of plants and animals as compensation for the loss of wetlands resulting from an approved project.

# 3. DEM Regulations for Air Quality

Air emissions from an identifiable source that degrade plant or animal life in the Coastal Area shall not be permissible.

# 4. DEM Regulations for Oyster Reefs

Uses within the Coastal Area that degrade oyster reefs shall not be permissible.

# 5. DEM Regulations for Beaches and Dunes

- a. All individuals, corporations or other entities who wish to construct buildings, houses or other structures on the dunes or beaches must obtain a permit from the DEM or approved local code pursuant to Section V-D, ACAMP-Regulated Uses.
- b. As part of the application, the individual must provide a survey of his property which has been completed by a duly licensed surveyor of the State of Alabama no more than 90 days before the permit application is filed with the DEM. The survey shall show the "crestline" of the primary dune system. The "crestline" is a line running more or less parallel with the shoreline interconnecting the peaks of the primary dune system.
- c. Construction shall not be permissible seaward of the "construction setback" line. The "construction setback" line is a line running parallel to the crestline at a point 40 linear feet inland of the most inland point of the crestline.

#### d. Variance

Existing lots that do not contain a buildable area as a result of the application of the construction setback line may apply to the DEM for a variance. The DEM may permit the construction of a structure on such a lot if the applicant demonstrates to the satisfaction of the DEM that his construction plan will minimize the alteration of the existing dune structure. Structures that provide access to the beaches of the Coastal Area (walkways, etc.) may be permitted by the DEM, if:

- (1) it is determined by the DEM that the construction of these access structures will result in less damage to the dune system than the existing or anticipated pedestrian traffic to the beach and
- (2) the applicant shall demonstrate to the satisfaction of the DEM that the structure will be built in a manner that minimizes the impact of the construction on the dune system.

e. It shall be in violation of the Coastal Area Management Program to alter the primary dume system through the removal of dume or beach sands and grasses, through the operation of vehicles on the dume system, or any other activity that could result in the destruction of the dume.

# 6. DEM Regulations for Water Resources

- a. Any person who proposes to construct a new well or significantly alter an existing well in order to pump more than 50 gallons of water per minute shall obtain a permit for construction of the well from the DEM.
- b. Applications for construction permits shall be submitted to the DEM on forms requiring such information as described by the DEM. The application shall include:
  - size, depth, and location of proposed well(s);
  - (2) construction diagram of the well (including intervals to be screened):
  - (3) estimated range of daily pumping capability and anticipated withdrawal rates: and
  - (4) other information determined necessary by the DEM.
- c. Construction permits may be issued after the consideration of pertinent factors, including:
  - 1. existing use of groundwater resources
  - 2. immediate prospective use of groundwater resources
  - recharge capacity of affected aquifer(s)

In no event will permits be issued if it appears that normal pumping activities of the well will result in salt water intrusion into any coastal, fresh, groundwater resource.

d. After issuance of a construction permit for construction of a well, the applicant will submit such test data as is required by the DEM. Testing of the well may be required to be performed in cooperation with the Geological Survey of Alabama. Prescribed test results will be used to establish the effect of the well on groundwater resources. Based upon all available information, a permit to operate the well will be issued if normal operation of the well does not adversely impact the existing ground water or result in salt water intrusion into any coastal area fresh groundwater resource.

# 7. DEM Regulations for Protection of Cultural Resources

- a. All development in the Coastal Area shall to the maximum extent practicable avoid adversely affecting historic, cultural, or archaeological resources of the Coastal Area.
- b. Any person shall notify the DEM of any historical, cultural, or archaeological resources that are discovered in the course of conducting a permissible use in the Coastal Area.
- c. DEM may issue an emergency cease and desist order, effective for a period of 30 days, if an ongoing project threatens an historical, cultural, or archaeological resource.
- d. All uses subject to management shall to the maximum extent practicable, be undertaken in such a way as to minimize damage to historic and archaeological sites in the coastal area.

# 8. DEM Regulations for Fisheries Management

To the maximum extent practicable, all uses within the Coastal Area shall be undertaken in such a way as to not degrade fishery habitats.

# 9. DEM Rules and Regulations for Wildlife and Wildlife Habitat

To the maximum extent practicable, all uses within the Coastal Area shall be undertaken in such a way as to preserve and protect existing wildlife and wildlife habitats. In particular, endangered species and their habitat, as designated by appropriate federal and state agencies, shall be protected to the maximum extent practicable.

# 10. DEM Rules and Regulations for Deep Well Disposal

The disposal of liquid wastes in deep wells is regulated by the Alabama Department of Environmental Management's Underground Injection Control regulations, which apply to all non-oil and gas industry injection wells, and the State Oil and Gas Board, which regulates the disposal of brines produced as a result of oil and gas production.

#### SECTION VIII. ADMINISTRATIVE RULES AND REGULATIONS

- A. APPLICATION. These rules shall govern DEM procedures. They are adopted pursuant to Section VIII of the Code. From time to time as needed, the DEM, in cooperation with OSP, may adopt new rules or change the rules included herein by following the procedure set out in Subpart E.
- B. COMMISSION CHAIRMAN. The chairman of Environmental Management Commission shall be elected by the members of the Commission. In the absence of the chairman, the Commission shall designate from time to time any other member as acting chairman.
- C. COMMISSION MEETINGS. The Commission shall meet regularly but at least every two months to conduct business and as occasion demands upon the call of the chairman. All Commission meetings shall be open to the public, and an accurate record of all proceedings shall be kept and made available for public inspection. The Commission meeting will be conducted by the chairman or, in his absence, the Acting Chairman, in such a way as to provide an opportunity to the public to be heard. The Chairman may, however, set reasonable limitationson presentations to ensure that there is no unnecessary delay and that order is maintained.
- D. QUORUMS. A quorum for the transaction of the Environmental Management Commission business shall consist of at least four members. A majority of those members voting shall be required to pass any motion before the Commission.
- E. PUBLIC NOTICE. Public Notice of the time and place of Commission meetings, including notice to all persons having scheduled business at the meeting, shall be given prior to the Commission meeting. Public notice shall be given of all final Commission actions.
- F. RECORDS. Evidence of a non-proprietary nature submitted to the DEM in connection with DEM actions for which a hearing has been announced will be available for public inspection at the offices of the DEM. All such evidence submitted in connection with DEM actions shall be retained and made available to the public after final Commission action. Transactions of such materials may be obtained at the expense of the requestor.

#### G. APPEALS PROCESS

- 1. Any person or persons, partnership, corporation, state or local government entity aggrieved by any DEM action or by issuance of an order to cease and desist may appeal the action or order to the DEM and request an appeals hearing, pursuant to this section.
- 2. Within 15 days of a person or entity having received an actual notice of a denial or revocation of a permit or consistency determination, the aggrieved person or entity must file a notice

of appeal with the DEM hearing officer or the DEM Commission. A person or entity having not received an actual notice has 30 days to file a notice of appeal. A person appealing a rule or order must file within 45 days from the notice thereof.

- 3. An appeal must include sufficient supporting documentation, the name and address of the appellant and the injury to be suffered to the appellant by the DEM decision. The hearing shall be conducted in accordance with the rules and regulations of the DEM appeals process, and State Administrative Procedures Act.
- 4. Within 45 days of the filing of a proper request for a hearing the DEM Commission shall commence the hearing process, and shall issue an order on the appeal within 30 days after the hearing process has been concluded.

#### H. REVISION OF THE MANAGEMENT PROGRAM

- 1. Revision to the Management Program including any changes of the operational rules and regulations and any other changes in the substance and intent of the program shall be made according to the procedure set forth below.
- 2. A proposal to revise the Management Program may be made by the DEM or OSP. The OSP shall coordinate with DEM and examine the proposal. After reaching a tentative agreement the OSP will coordinate with the Coastal Advisory Committee. When a final determination is made on the extent and structure of the proposed revision a public notice of the proposal may be given along with opportunity for comment on the proposal.
- 3. Administrative procedures not requiring a change of substance in the policy or program ACAMP shall not require the approval of the Governor.
- 4. All revisions which, under applicable federal law, would be revisions to the federally approved program shall require the Governor's approval as well as any appropriate adherence to federal requirements to become effective.
- I. DESIGNATION OF GEOGRAPHIC AREAS OF PARTICULAR CONCERN AND AREAS FOR PRESERVATION AND RESTORATION
- 1. A proposal to designate a GAPC or APR may be made by the Advisory Committee or DEM, to OSP. If the OSP elects to proceed with the proposed designation, public notice of the proposed designation shall be given along with opportunity for comment.
- 2. All GAPC or APR designations by the OSP shall become effective upon the approval by the Governor.

# J. YEARLY REPORT ON THE STATUS OF THE COASTAL AREA

The OSP shall produce a yearly report on the state of the Coastal Area. This report will describe the status of coastal resources, quantifying the biological and other resources of the Coastal Area on an accounting basis. The information necessary for this report will be accumulated at a rate commensurate with program funding.

# PART III ALTERNATIVES

#### PART III

#### ALTERNATIVES TO THE ALABAMA COASTAL AREA MANAGEMENT PROGRAM

#### Introduction

Given the nature of the proposed action of approving the revisions to the Alabama Coastal Area Mangement Program, all alternatives would involve a decision to delay or deny approval. Delay or denial of approval could be based on the failure of the Program to continue to meet any one of the requirements of the CZMA. In approving a CZM program revision, affirmative findings must be made by the Assistant Administrator for Coastal Zone Managment on over twenty such requirements.

During development of the original Program, several areas of potential deficiencies were identified. However, those deficiencies were addressed by Alabama and the Assistant Administrator made a determination that Alabama has met the requirements for approval under Section 306 of the Coastal Zone Management Act. This part of the program revision identifies areas where there are possible deficiencies and considers alternatives of delay or denial based upon each.

The generalized impacts of delay or denial of approval of the Alabama Program, regardless of delay or denial are as follows:

# 1. Loss of Federal monies to administer the program

Under Section 306, Alabama received approximately \$779,000.00 for its second year of program implementation of its coastal management program. Most basic to a loss of Federal funds will be the inability of the State to continue to provide adequate staffing and administrative support to its review for consistency and permitting activities. The baseline data for the "present levels" concept could not continue to be monitored and would thereby fail to guide our Program's regulatory activities. Efforts to coordinate state, federal and local permits and assistance for obtaining them would be eliminated.

#### 2. Loss of consistency of Federal actions with the Alabama Program

Program revision approval would mean that Federal actions in or affecting Alabama's Coastal Area would continue to have to be consistent with the States' Program under Section 307(c) of the CZMA. Loss of consistency would be of particular concern as the Coastal Area is influenced by Federal activities (i.e., Corps, Park Service, FWS, etc.).

3. Loss of adequate consideration of the national interest which are other than local in nature as required by Section 306(c)(8) of the CZMA

By delaying or denying program revision approval, the State would be under no obligation to give adequate consideration to coastal resources or facilities that the use of such resources may provide. The national interest also encompasses a concern for the protection of resources such as water, air, wetlands, and wildlife. Consideration of the need for the national interest in facilities must take into account the impacts of facilities on these key resources.

Alternative 1: The Assistant Administrator could delay or deny revision approval if the Alabama Legislation did not provide an adequate basis for a coastal management program continuation

At issue here is whether the State, through the Alabama Coastal Area Legislation, as amended, has an adequate organization structure and the sufficient authority to implement a management program for the Coastal Area. Specifically, 1) does the legislatively set landward boundary of the coastal Area still meet the CZMA requirements and 2) does the States ability to control activities that have a direct and significant impact on the Coastal Area which were not traditionally permitted by state agencies meet the requirements of the Federal Act.

Specifically, the ten-foot contour boundary meets the program approval requirements of Section 9 of the Coastal Management Act by including the following specific areas:

- The designated special managment areas, e.g. Port of Mobile and Mobile-Tensaw River Delta;
- 2. All waters under saline influence;
- 3. All salt marsnes and wetlands that are subject to inundation of tidal salt waters;
- 4. All beaches and shores;
- 5. The transitional and intertidal areas subject to coastal storm surge and areas containing vegetation that is saltwater tolerant;
- 6. and all coastal islands.

The inland boundary also includes those areas the management of which is necessary to control uses which have a direct and significant impact on Coastal Waters. The Alabama Coastal Area Management Program defines uses which have a direct and significant impact in Chapter Four (section III of this document). The uses described are those which have a direct and significant impact on the Coastal Area which includes all coastal waters and lands within the 10-foot contour.

There may be uses which occur beyond the 10-foot contour which have significant impacts on coastal waters. However, in order for these uses to have direct impacts, the uses must exert an impact upon the coastal waters through an identifiable link or process, e.g. effluent, outfall or septic tank runoff. In this manner the 10-foot contour includes sufficient areas to provide for the management of direct and significant impacts on coastal waters. In conclusion, the inland boundary is presented in a manner that is clear and exact enough to permit determination of whether property or an activity is located within the management area and to allow the state to inform interested parties whether they are subject to the terms of the management program.

The States' authority to control land and water uses which have a direct and significant impact on coastal waters is achieved through two mechanisms, compliance review of state permits and ACAMP permits, both of which fall under Technique B, Direct State Control (Section 306(c)(1)(B), CZMA Section 923.43, Federal Register, March 28, 1979). The Department of Environmental Managment's authority to review other state permits provides grounds to take action to ensure compliance of state agencies with the management program.

In conclusion Title 9, Section 7 of the Alabama Code provides an adequate boundary and mechanism for controlling other State agency decisions in the Coastal Area.

Alternative 2: The Assistant Administrator could delay or deny revision approval if it lacks the mechanism to continue the implementation of the management program.

The question is not whether the DEM and OSP (ACAMAS) have the authority to implement the program, but whether the DEM and OSP have the capability to implement the program effectively. Chapter Four gives a full description of the procedure that will be employed by the ACAMP in reviewing activities which may affect the Coastal Area and which are undertaken by State agencies or private parties subject to State permitting programs, including the permitting program of the DEM. The DEM will monitor the conduct of uses/ activities to insure that they are carried out consistent with the management program. Several means will be used to monitor these uses:

- o periodic surveys or inspections
- o memoranda of agreement;
- o compliance monitoring; and
- o biological baseline analyses.

In terms of enforcement, the program document has identified several methods:

- o notification of violations of the management program to the user and the responsible permitting agency;
- o cease and desist orders:
- o revocation of the Certification of Consistency; and
- o Judicial remedies

In conclusion, the State has the capability to implement the program effectively through the mechanisims for monitoring and enforcement identified above.

# PART IV AFFECTED ENVIRONMENT

#### PART IV

#### AFFECTED ENVIRONMENT

# A. Biophysical Setting

The Alabama Coastal Area is defined as the lands and waters of Alabama seaward of the 10-foot contour and extending to the limit of the territorial sea. The coastal area exists within Mobile and Baldwin Counties and includes 394,000 acres of estuarine waters. 121,600 acres of wetlands, 9,218 acres of beaches and large areas of bottomland and upland forest, agricultural and developed land. Subareas of Alabama's coastal area include Dauphin Island and the waters, bottoms, and surrounding lands of Mississippi Sound, the marginal lands, waters, and bottoms of Mobile Bay including the extensive Mobile-Tensaw River Delta, the Gulf Shores-Fort Morgan Pensinsula including Little Lagoon, other beach areas in southern Baldwin County east to the Alabama/Florida state line, the surrounding lands, waters and bottoms of Perdido Bay and a portion of the Mississippi-Alabama continental shelf. A number of specific features have been very significant in determining the character of southwest Alabama's development. These features include the Mobile-Tensaw River Delta, the coastal islands, beaches and dunes, the oyster reefs in Mobile Bay, the marshes and submerged grassbeds, and the estuarine systems. The area within the Alabama coastal boundary and subject to the policies of the Alabama Coastal Management Program is described in Chapter Four, Section I.

# B. Socioeconomic Setting

The 1980 population of Mobile and Baldwin Counties is 442,638 persons. Both counties have experienced considerable growth since 1970, Baldwin County's population increasing by 32% and Mobile County's population grew by 14.1%.

A reason for this overall population growth is the economic growth that has occurred within the Mobile/Baldwin Counties area.

#### C. Coastal Resource Uses

The well-being of Mobile and Baldwin counties is strongly influenced by their coastal resources and orientation. As in the past the Port of Mobile has played a large role in the economic well-being of the region. Today, it is the third largest port on the Gulf Coast. In fiscal year 1982, 42.2 million tons of cargo passed through the State docks system in Mobile. In fiscal year 1981, 41.2 million tons of cargo passed through the State Docks.

The industrial profile of the planning area is currently dominated by eight industries: 1) paper and allied products, 2) shipbuilding and repair, 3) chemical and allied products, 4) lumber

and wood products, 5) shipping, 6) oil and gas production, 7) textile and apparel products, and 8) food and kindred products. Many of these industries are closely related to the natural resources of the Coastal Area.

Three events are anticipated or have occurred which could provide for increased economic growth within the area: 1) expanding chemical industrial base, 2) increased production of oil and natural gas, and 3) the development of the Tennessee-Tombigbee Waterway.

Urban growth and residential development patterns have become well established in the Mobile/Baldwin counties area. Mobile County's growth is oriented towards its populated urban center, Mobile. Construction of new transportation arteries and expanded sewer and water service has allowed higher densities of land use to arise in the vicinity of Mobile.

Baldwin County's urban growth has centered on the eastern shore of Mobile Bay from Spanish Fort to Fairnope, and is more and more serving as a bedroom community for Mobile's commuters. In addition, the boom in tourist activity experienced of late has resulted in a developing resort and second home center in South Baldwin County.

Usable energy in the Mobile-Baldwin County area is primarily derived from petroleum products, natural gas and electricity. Petroleum refineries, natural gas processing, treatment and liquid extraction plants, storage tanks, electric generating plants, coal handling facilities, major transmission lines and pipelines and other energy- related facilities are located almost exclusively in Mobile County, many lying in or crosing the Coastal Area. In addition, oil and gas is being rapidly explored and produced within the two county area. Outer Continental Shelf Lease Sales have resulted in the leasing of numerous tracts south of the Mobile-Baldwin County area.

Aside from oil and gas extraction, other mining activities include sand and gravel, clay, soil and subsoil, and oyster shell. One sand and clay extraction operation has been permitted in the coastal area. Shell dredging is an extensive and active industry. Over 40 million cubic yards of oyster shell is available for mining; however, no significant amount of mining of the resources is presently taking place.

Within the two coastal counties there are 18 municipal waste water dischargers that discharge more than 53 million gallons per day (mgd), 40 industrial dischargers with National Pollution Discharge Elimination System permits that discharge about 130 mgd, 49 semi-public and private dischargers of sanitary wastes, cooling waters, boiler blowdown, rain and runoff. At least 72,000 acres of water bottoms have been closed, since the early 1950's, to harvest because of high coliform counts.

Most emission sources of air pollutants are located in the eastern half of Mobile County between Bayou La Batre and Mt. Vernon. There are no major groupings of emission sources in western Mobile

County or in Baldwin County. Portions of eastern Mobile County have been identified as being Areas of Primary Nonattainment and Secondary Nonattainment for Particulates.

Solid waste disposal is an ever increasing problem in the coastal area. By 1990, annual disposal is expected to increase to 500,000 tons of solid waste. A number of sites are presently authorized as solid waste disposal locations and over 70 are unauthorized.

The Coastal Area of Alabama offers a wide variety of recreational opportunities to residents and tourists. Recreation opportunities in south Alabama are most often outdoor activities, specifically fishing, boating, swimming, hiking, hunting and camping. Also interesting historical sites, public parks and excellent beaches are located along the shores.

Coastal Alabama's estuarine and Gulf-fronting shoreline is developed for a wide variety of uses. Generally, Dauphin Island, the Gulf Shores area, Perdido Bay, and lower Mobile Bay are developed as tourist and second home centers. Most of the shoreline on Mississippi Sound is unaltered marsh, with urban development in Bayou La Batre and Coden. Upper Mobile Bay is extensively developed, with residential development in Baldwin County and heavy industry in Mobile County, the greatest intensity of waterfront development occurring in and around the Port of Mobile. The Mobile-Tensaw River Delta is extensively undeveloped.

The coastal shoreline in many places is eroding. Of 504 miles of shoreline, 221 miles show a net erosional trend. Areas experiencing the severest erosion include Perdido Pass, Little Point Clear, the southeastern limits of the Mobile-Tensaw River Delta, the islands and northern shore of Mississippi Sound and western Dauphin Island.

Alabama's fishing industry, one of the important natural assets of the State, constitutes a major land and water use. Commercial fishing is a major economic factor in several Mobile and Baldwin County communities. Bayou La Batre ranks tenth in the nation in value of seafood landed annually.

A more extensive discussion of these coastal land and water uses is presented in Chapter Two.

# D. Natural Resources of Coastal Alabama

Abundant and varied natural resources have been the stimulus for habitation and development within the coastal areas of Alabama. Plentiful waters, much of them naturally deep enough for navigation, brought the earliest settlers to the area and continues to be a critical factor in support of the biological resources, transportation, industrial processing and recreational activities. Highly productive and diverse coastal habitats provide rich wildlife and fishery resources for local consumption, sport and recreation and commercial seafood industry.

Coastal wetlands in Alabama are of three types: marsnes, swamps and bogs. 183,000 acres of wetlands are present. Wetland functions include 1) critical nabitat, 2) the primary nutrient source providing the base for aquatic and estuarine food chains, 3) storm force buffers, 4) flood water storage areas, and 5) erosion deterent and sediment trap. The varied, important functions of marshlands are imperiled by persistent pressures to alter or destroy them for development purposes.

The extent of submersed grassbeds in the estuarine waters of Alabama is not well known. It is believed nowever, that their extent has been reduced substantially. Submersed grasseds may play a valuable role in the coastal ecosystem, especially to fisheries; more research is needed to determine the extent of this role.

Beaches and dunes are historically dynamic features whose temporary stability is extremely sensitive to disturbance. Alabama's more than 14,000 acres of beaches and dunes constitute a valuable habitat for a variety of flora and fauna and are environmentally sensitive areas of local importance. Barrier islands, beaches and dunes provide a natural defense against the potentially destructive and erosive forces of the Gulf of Mexico.

Natural public oyster reefs in Mobile Bay and Mississippi Sound cover about 3,064 acres. Only 882 acres is reef with highly concentrated oysters (more than 7000 oysters larger than 3 inches per acre). Aside from this live oyster fishery is 46 million cubic yards of oyster shell available for mining.

The varied nabitats of coastal Alabama support a wide range of animals including aquatic, semi-aquatic and terrestrial forms. Many are permanent coastal residents, while others either over-winter or are present in the area only during the breeding season. Limited extent and uniqueness of some habitats, coupled with destructive activities, has resulted in a number of rare and endangered species of plants and animals occurring in this area. An approximate inventory includes 30 species of plants, 9 fish, 21 species of reptiles and amphibians, 22 species of birds, and 9 species of mammals. Table II-5 summarizes the current status and habitat of these species.

It is estimated that at least 2,000 significant archaeological sites can be found in the Alabama Coastal Area. The earliest Indian activity dates from 8000 BC and artifacts over 4,000 years old are on display in the area museums. Known European influence dates as early as 1516. This marks the beginning of the nearly continuous occupation of South Alabama. Of course, settlement was primarily a result of the abundant resources available to the colonist along Alabama's coast. Each era of colonization has left its record in the numerous buildings, forts and ruins to be found in the coastal area today.

Surface waters in the Mobile-Baldwin Counties area flow from three major drainage basins; the Mobile River basin, the Escatawpa River basin, and the Perdido River basin. On the average, over 43 billion gallons of surface water pass through the coastal area each day. The principal sources of Mobile and Baldwin Counties abundant ground water resources are the Miocene-Pliocene and alluvial aquifers. About 16,026 billion gallons of water are exploitable from the Miocene-Pliocene aquifer and approximately 37 billion gallons is available from the alluvial aquifers. Other ground water sources are minor and include small sand and gravel terrace deposits and barrier island and other coastal sand deposits.

A further discussion of coastal Alabama's natural resources is presented in Chapter Two.

# PART V ENVIRONMENTAL CONSEQUENCES

#### ENVIRONMENTAL CONSEQUENCES

The Federal action is the proposed approval of the Alabama Coastal Area Management Program revision and after approval. Alabama will continue to be awarded Federal grants-in-aid to assist it in implementing and administering its program. This Part addresses the impacts associated with the above action as well as the secondary impacts of implementing the program.

#### A. Direct Effects of Federal Approval

The intent of the CZMA is to promote the wise use of the Nation's coasts. The CZMA encourages states to achieve this goal through better coordination of governmental actions, explicit recognition of long-term consequences of development decisions, and the institution of a more rational decision-making process. This process, which could affect much of the future activity in the coastal zone, will have a substantial environmental impact.

Both beneficial and adverse environmental and socioeconomic effects may result from Federal approval and continued state implementation of the Alabama Coastal Area Management Program. The fundamental criterion for assessing these impacts should be the CMA's declaration of policy: "to achieve wise use of land and water resources of the coastal zone giving full consideration to ecological, cultural, historic and aesthetic values as well as the need for economic development". The Alabama Coastal Area Management Program provides this balanced approach to economic development and natural resource protection.

The Alabama Coastal Area Management Program is a comprehensive program which will be implemented over a period of many years. It is impossible to assess discrete impacts that will occur over this time. but a few points can be made. There are strong safeguards built into the coastal management program system because the CZMA requires that the intent of the National Environmental Policy Act (NEPA) be met. These safeguards are coastal resource use and natural resource use inventories, boundary designation, management authorities, uses subject to management, special management areas, review procedure, operational and administrative rules and regulations, monitoring and enforcement, existing legal authorities exercised by state agencies, national interest in the siting of facilities, continuing consultation and full coastal resources in Alabama. Although Title 9, Chapter 7 of the Alabama Code can be implemented as the state coastal management program without participation under the Coastal Zone Management Act, Federal approval offers several advantages to the state and allows a more comprehensive and effective program.

#### 1. Program Funding

Federal approval will permit the Office of Coastal Zone Management to continue to award program administrative grants (Section 306) to the State. This increased funding will 1) improve resource management decision-making in the coastal Area. 2) allow efficient review of coastal activities, 3) allow further contracting of technical research related to human and natural resources, coastal environments, and the management process, and will upgrade the information base on which resource management decisions will be made, 4) allow Section 306 grants to be used to help administer, implement, and improve Alabama's management program, and 5) allow increased use of resource management specialists at the state level. Objectives of research planned include 1) a Biological Baseline Analysis which will provide a baseline on which to measure the impact of land and water uses upn the flora and fauna of the coastal area, 2) a permit simplification process and permit information center, 3) a determination of the extent and location of coastal Alabama's beaches and dune systems, 4) a comprehensive inventory of wetlands and submerged grassbeds, 5) port and energy planning, and 6) an assessment of certain erosion control measures in specific areas and public education of erosion-related matters.

While Section 306 program approval is not a prerequisite for Section 308, Coastal Energy Impact Funds and Formula Grants eligibility, active program participation is a prerequisite. This Section 308 assistance aids in ameliorating the impacts of coastal energy activities. Additional funding for interstate coordination, beach and island preservation and access, research, and training also may become available as funding for these sections is appropriated.

#### Federal Consistency

Federal approval and continued state implementation of Alabama's Coastal Management Program will have implications for Federal agency actions. Approval of the state's program revision will lead to the continued implementation of the Federal consistency provisions of the CZMA (Section 307 (c) and (d)). These provisions, and the manner in which Alabama implements them, are described in Chapter Four.

The purpose of the Federal consistency provisions is to allow closer cooperation and coordination among Federal, State, and local government agencies involved in coastal related activities and management. This desirable impact is one of the principal objectives of the CZMA.

The Alabama Coastal Management Program evolved with considerable assistance from the numerous Federal agencies with responsibility for activities in the coastal zone. No Federal agency activities were specifically excluded from the coastal zone, although these activities may have to meet environmental standards to obtain coastal sites or be located outside the coastal zone if adverse environmental effects cannot be sufficiently mitigated.

When Federal agencies undertake activities, including development projects, directly affecting the state's coastal zone, they are required to notify the state of the proposed action. Steps will then be taken to insure that the proposed action not only meets Federal requirements but is also consistent with the state's management program. In the event of a serious disagreement between the state and Federal agency, either party may seek mediation by the Secretary of Commerce which will provide increased opportunity for resolving conflicts. These procedures will provide all parties with an opportunity to balance environmental concerns with other national, state and local interests.

In cases where the state judges that a proposed Federal license, permit or assistnace activity is inconsistent with the state's coastal program, the Federal agency will be required to deny approval for the activities. State objections must be based upon the substantive requirements of the management program. State objections may require Federally regulated and assisted projects to consider and locate in alternative site(s) thereby causing adverse impacts in non-coastal marine or distant coastal areas. State objections may otherwise suggest means by which projects could be modified to achieve compliance with the management program.

In certain instances, upon appeal, a state objection to a proposed Federally licensed or assisted activity may be set aside by the Secretary of Commerce if the proposed activity is consistent with the objective of the CZMA or is in the interest of national security. In the former case, the Secretary must find that (1) the activity will not cause an adverse impact on the coastal zone sufficient to outweigh its contribution to the national interest; (2) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the management program; an (3) that the proposed activity will not violate requirements of the Federal Water Pollution Control Act or the Clean Air Act. Even if state objectives are set aside by the Secretary, the override will be dependent upon consideration of environmental protection needs. This procedure conforms with NEPA's objective for incorporating environmental values in Federal agency decision—making.

Where the state determines that a proposed Federally regulated or assisted project is consistent with the requirements of the management program, the Federal agency may approve the project which will then be in those related to environmental protection. Notwithstanding state approval for the project, the Federal agency is not required to approve the license, permit or assistance application. The proposed project may still require Federal Government denial based upon NEPA, Endangered Species Act, Fish and Wildlife Coordination Act, or other overriding national interest grounds where Federal criteria are more stringent than the state's management program requirements. Between Federal and state environmental requirements for the coastal zone, the more stringent apply, thereby fulfilling NEPA's objectives to administer Federal programs in a manner which maintains the quality of the environment.

#### 3. National Interest

Federal approval of Alabama's program revision will certify that the state continues to have an acceptable procedure to insure the adequate consideration of the national interest involved in the siting of facilities and management of areas that are more than local in interest. These facilities involve recreation, energy, transportation, ports and navigation, national defense, air and water quality, and endangered flora and fauna, to the extent they are dependent on or relate to the coastal zone. National interest is discussed in Appendix E.

This policy requirement of the Coastal Zone Management Act is intended to assure that national concerns related to facility siting are expressed and dealt with in the development and implementation of a state's coastal management program. The requirement should not be construed as compelling Alabama to implement a program which accommodates certain types of facilities, but to assure that such national concerns are not arbitrarily excluded or unreasonably restricted in the management program.

This provision might have two impacts. First, it insures that a state has a process and program that does not prohibit or exclude any use or activity dependent on the coastal zone. In the absence of a comprehensive program, such considerations might simply be ignored by oversight or default. This requirement will insure they are specifically considered. On the other hand, the existence of a consultative procedure should lead to more deliberate and less fragmented decision-making concerning the siting of facilities in the coastal zone.

#### B. Indirect Effects of Federal Approval

#### 1. General Socioeconomic Impacts of the Proposed Action

#### a. Introduction

The Alabama Coastal Area Management Program seeks to manage the state's Coastal Area through a balanced approach to the development of Alabama's resources. The program's policies and rules and regulations seek to provide the maximum benefits to the general public by encouraging the development of recreational, economic, and cultural resources while protecting the national coastal resources.

Benefits will accrue to people throughout Alabama and the nation whose economic productivity, market attractiveness or opportunities for employment would be enhanced by the program's guidelines and standards. For example, persons with recreation and tourism interests will benefit from standards that protect beaches and encourge the provision of public access. Marine fisheries interest will benefit from regulations that protect natural habitats, such as wetlands.

Potential significant social benefits can include the fact that planning stabilizes erratic "swings" in expectations because it

results in less uncertainty in future prospects of land investment and a heightened satisfaction with one's physical environment.

#### b. Land Values

Land values in Alabama continue to rise as increased pressure for development is constrained by the supply of readily usable land. These pressures are magnified in portions of the Coastal Area with water access and in the Mobile urban area. The Coastal Area Management Program is not expected to have a significant impact on property values, since the program does not significantly reduce the supply of land with water access for the supply of land in the Mobile urban area.

#### c. Costs of Development

The state has placed a high priority on permit simplification. Recognizing that delays in permitting frustrate development and add unnecessary costs to the economy, the state took the first step toward the long-range goal of permit simplification by undertaking a study that led to the establishment of a permit information center for the Coastal Area. This activity in conjunction with a culmination of others resulted in the drafting and passage of state legislation creating a one step permitting process for the state, a process which also encompassed the permit and consistency requirements of the state's Coastal Management Program. As a result, the cost of development throughout the state may actually decrease.

#### d. Employment

The Alabama Coastal Area Management Program's impact on employment and other business investment may vary by industrial sector. Investment and employment potential in fisheries, tourism, and commercial recreation facilities may be enhanced through Alabama's policies.

The state will continue to find solutions to environmental problems which would allow expanded port operations, expanded industrial development, and increased coastal development. If reasonable solutions are reached as expected, increased economic development would be expected to result in more employment opportunities within the Coastal Area.

#### e. Development Pattern

The Alabama Coastal Area Management Program may have an effect on development patterns in some areas of the coast. Development may be directed away from wetlands, submersed grassbeds, and dunes. In addition, the nature of private planning and design may be altered in natural resource areas such as beached, dunes, wetlands and the 100-year flood plain.

#### 2. Institutional Impacts of the Proposed Action

The Alabama Coastal Area Management Program may affect the relationships, responsibilities and obligations of Federal, state and local governments. These, in turn, may affect private sector operations. The following discusses the institutional impacts of the program.

## a. Department of Environmental Management and State Government Relationships

According to provisions of §9-7 (as amended), the participation of state agencies in the continued implementation of the Alabama Coastal Area Management Program is encouraged. Existing state legal authorities have been identified, and a detailed review procedure of uses requiring state permits has been presented in Chapter Four, Section V.

## b. Department of Environmental Management and Local Government Relationship

According to provisions of §9-7 (as amended), all state agencies engaged in programs affecting the Coastal Area are urged to cooperate and participate with local governments in effectuating the purposes of this Code and further, that the participation of local governments in the implementation of the Coastal Area Management program is encouraged. Major efforts were made to secure input during program development from all local units of government. Chapter Four presents the DEM's procedure for reviewing uses that require a local permit.

#### c. Cost of Government

A general increase in the public costs for managing coastal lands and waters may be anticipated in the first few years of implementation. These increased costs may be due to (1) the DEM's responsibility to review uses subject to management for consistency with the program, planning activities to be accomplished in effectively implementing the management program, and program administration and (2) the additional work effort required of other governmental agencies to assure their decision—making and planning efforts are consistent with the Coastal Area Management program.

While there may be a net increase in the cost of government for a few years, this increase is expected to be far less than the expenditures that would be required to remedy the problems that would result from the lack of adequate review and management of coastal activities.

#### d. Predictable Decision-Making

Since uncertainty is costly to all parties, developers and conservationists have been calling for more certainty in determining whether a use is subject to review as well as the standards by which the proposed use may be reviewed. The Alabama Coastal Area Management Program provides guidance in determining if a use is subject to

management and presents standards by which a proposed use subject to management will be reviewed for program compliance, thereby eliminating much uncertainty about the permissibility of a proposed use.

#### e. Citizen Participation

The extensive public involvement in the development of the Alabama Coastal Area Management Program is described in Appendix E. The program calls for continued citizen involvement and allows for input through citizen participation in the Environmental Management Commission and Coastal Advisory Committee. The Commission meets on a monthly basis and the Advisory Committee meets on an unscheduled call basis.

#### f. Recognition of the National Interest

Implementation of the Alabama Coastal Area Management Program may improve state recognition of the national interest. Further, through the Federal consistency provisions of the National Coastal Zone Management Act, federal agencies have a continuing opportunity to make certain that the national interest is properly considered. Appendix E describes the national interest that has been considered in the development of policies and regulations for the Alabama Coastal Management Program.

#### 3. Impacts of the Program's Operational Rules and Regulations

The Alabama Coastal Area Management Program delineates operational rules and regulations to be used as standards for the review of all uses subject to the management program. The anticipated impacts resulting from the implementation of these operational rules and regulations was discussed in the EIS.

#### a. Existing Laws, Rules, and Regulations

A number of statutes and regulations, both state and Federal, have been adopted as minimum standards for they will constitute an integral part of the operation of the management program. The adoption of these existing laws, rules, and regulations eliminates duplication of effort in the review and permitting of these regulated activities.

#### b. General Rules and Regulations

General rule and regulation 1 made the approval of any regulated, or ACAMP regulated use, or the issuance of any DEM permit for activities in the Coastal Zone conditional upon continued compliance with the management program and any relevant conditions deemed appropriate to assure consistency. This rule assures consistency of an approved use with the management program at all times.

General rule and regulation 2 requires that uses that degrade the Coastal Area shall not be permitted nor certified to be consistent

with the management program unless the DEM determines there is a compelling public interest. If the DEM determines there is a compelling public interest, the use shall be undertaken in a manner that minimizes degradation. This rule is aimed at eliminating degradation of the Coastal Area, except in cases of compelling public interest where degradation is minimized.

General rule and regulation 3 requires that applicants seeking DEM approval of major projects show the impacts of the proposed use on specified resources to enable the DEM to consider all impacts in its review of major projects.

General rule and regulation 4 assures that the review procedure and monitoring and enforcement provisions as presented in the management program will be adhered to.

General rule and regulation 5 enables the DEM to take necessary emergency action when it finds that an imminent peril to the public health, safety, or welfare requires immediate action without adherence to the procedures set out in the management program.

General rule and regulation 6 provides for resolution for any conflicts which may occur between the General Rules and Regulations and the Coastal Resource Use and Natural Resource Rules and Regulations.

- c. Coastal Resource Use Rules and Regulations
- 1) Siting, Construction and Operation of Energy Facilities

#### Possible Impacts

- a) Allows energy development with minimal environmental impact.
- b) Allows presentation and consideration of all impacts before DEM grants approval or disapproval.
- c) Assures compatibility of uses.
- d) Preparation of Energy Facility Construction and Operation Plan showing impacts may require additional output of human and financial resources.
- 2) Dredging and Filling

#### Possible Impacts

- a) Allows dredging and filling with minimal environmental impact.
- b) Prevents unnecessary channel construction or maintenance.
- c) Prevents problems associated with dead-end canals.
- d) Allows maintenance of existing channels to original design specifications.
- e) By transferring spoil disposal from coastal inshore water bottoms to inland areas or offshore Gulf of Mexico waters, some additional expenses may result.

#### 3) Shoreline Erosion

Possible Impacts

- a) Prevents increased on-site shoreline erosion resulting from the emplacement of structural erosion control measures.
- b) Prevents erosion problems in downdrift areas resulting from the emplacement of structural erosion control measures.
- c) Provides for preservation and restoration of dunes, beaches, wetlands and submersed grassbeds and shoreline restoration and nourishment so that these areas can carry out their natural erosion control functions.

#### 4) Public Access

Possible Impacts

- a) Greater opportunities for public access to coastal waters may become available.
- 5) Natural Hazard

#### Possible Impacts

- a) Loss of life and property resulting from inappropriate design, location, construction or operation of new facilities in hazard areas may be avoided or minimized.
- b) If public expenditure for public works projects do not promote development in the 100-year flood plain, the requirement for public services commonly needed to mitigate hazard potential or loss such as providing rescue and relief, loans for rebuilding, or flood insurance coverage will not increase as rapidly as they would without the management program.
- 6) Solid Waste Disposal

#### Possible Impacts

- Solid waste disposal sites will not adversly impact wetlands, beaches, dunes, or coastal waters.
- d. Natural Resource Rules and Regulations
- 1) Water Quality

#### Possible Impacts

- a) The monitoring of biological activity for existing point source discharges and establishment of a Discharge Information Zone for new point source discharges will help to limit the influence of point sources of pollution and maintain present levels of plants and animals in the Coastal Area.
- b) The Coastal Area will be protected from non-point pollution of developments greater than 25 acres in size or raw materials stockpiles of five or more acres.

#### 2) Wetlands and Submersed Grassbeds

#### Possible Impacts

- a) The ability of wetlands to carry out their natural functions will be maintained.
- b) The quantity of existing wetlands will be substantially maintained, and an amount of wetlands equivalent to that necessary to support present levels of plants and animals may be accepted to replace those lost as a result of an approved project.

#### 3) Air Quality

#### Possible Impacts

- a) Plant or animal life in the Coastal Area shall be protected from air emissions.
- 4) Beaches and Dunes

#### Possible Impacts

- a) Allows beachfront construction without altering the primary dune system.
- b) Allows the beaches and dunes to perform their role in shoreline erosion and storm protection.
- 5) Oyster Reefs

#### Possible Impacts

- a) Oyster reefs shall not be degraded by uses taking\_place in the Coastal Area.
- 6) Water Resources

#### Possible Impacts

- a) Coastal fresh or groundwater resources will be protected from saltwater intrusion, deep well injection and landfill contaminations.
- 7) Cultural Resources

#### Possible Impacts

- Damage to historic, cultural or archaeological sites is minimized.
- b) Opportunity for study of cultural resources discovered during development is provided.
- c) To avoid adversely affecting historic, cultural, or achaeological resources, developers may find their choice of site or development may be restricted.
- d) In the event that a 30-day emergency cease and desist

order is issued by the DEM, the developer may incur some delays.

#### 8) Fisheries Management

#### Possible Impacts

- a) Fisheries productivity may be sustained or increased through the protection of fishery habitats from degradation.
- 9) Wildlife and Wildlife Habitat

#### Possible Impacts

- a) Wildlife and wildlife habitats, in particular endangered species and their habitats, shall be preserved and protected.
- b) Certain types of development may be restricted from certain land or water areas.

#### 4. Impacts of the Coastal Area Management Program Boundary

The Alabama Code §9-7 fixes the inland boundary of the Coastal Area as the continuous 10-foot contour where the land surface elevation reached 10 feet above mean sea level. Within this boundary, the Alabama Office of State Planning and Federal Programs has been authorized to develop a Coastal Area Management Program setting forth objectives, policies, and standards to guide public and private users of land and water. The management program will not directly regulate activities outside the Coastal Area. However, the authority of the management program within the Coastal Area is such that it may preclude from the Coastal Area those uses and effects of uses which have a direct and significant impact within the Coastal Area and which are inconsistent with the management program.

#### 5. Impacts of Uses Not Subject to the Management Program

A number of coastal uses will not be subject to the management program to the extent that they do not involve dredging, filling, new or additional discharges into coastal waters, or draining of wetlands. These include uses which do not have a direct and significant impact within the Coastal Area and a number of uses in which the Alabama legislature in \$9-7 of the Alabama Code indicated its intent that they be permitted within the management area. No major negative impacts will result from activities not subject to the management program.

C. Possible Conflicts Between the Proposed Action and the Objectives of Federal, Regional, State, and Local Land Use Plans, Policies, and Controls for the Area Concerned

Prior to granting approval to a management program submitted by a coastal state, the Secretary of Commerce shall find that the State has

coordinated the contents of its management program with local, areawide or interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Assistant Administrator for approval (Coastal Zone Management Act, subsection 306 (c) (2) (A)).

The Office of State Planning and Federal Programs, as set forth in \$9-7, shall coordinate activities and plans of all existing interests, other state governments, local governments, regional planning agencies, interstate compacts and commissions, and federal agencies which have programs relevant to the Coastal Area.

The Alabama Coastal Management Program has accomplished these requirements of both Federal and State Acts. The program is a comprehensive management program which will provide effective management of the State's coastal resource uses and natural resources. Efforts are continuing to (1) consider the interests of local, state, regional, and federal authorities and affected bodies, (2) consider the programs of the many affected agencies and bodies to create a comprehensive management program, and (3) create a program which emboides the interests and established plans pertaining to coastal land and water uses and resources.

During program development, many local and regional plans were consulted. These include:

- (1) Water Quality Management Plan for Mobile and Baldwin Counties, Alabama. Prepared by the South Alabama Regional Planning Commission in compliance with Section 208 of PL 92-500. 1978.
- (2) Land Development and Policies Plan for Mobile, Baldwin and Escambia Counties, Alabama. Prepared by the South Alabama Regional Planning Commission in accordance with Department of Housing and Urban Development federal regulations regarding lands use. 1977.
- (3) Alabama Statewide Comprehensive Outdoor Recreation Plan prepared by Auburn University, under terms of a contract research project with the Alabama Department of Conservation and Natural Resources. The development and printing were financed in part through a planning grant from the (then) Bureau of Outdoor Recreation, Department of the Interior, under provisions of the Land and Water Conservation Fund Act of 1965 (Public Law 88-578). 1975.
- (4) Long Range Development Plan for Facilities at the Port of Mobile, prepared for the Alabama State Docks Department, 1977.
- (5) Alabama State Implementation Plan prepared in accordance with the Clean air Act of 1970 by the Alabama Air Pollution Control Commission, a division of the Department of Health. 1972.

(6) Mobile Area Transportation Study prepared by South Alabama Regional Planning Commission. 1970.

In addition, the existing legal authorities exercised by state and federal agencies that relate to the development and preservation of coastal resources have been identified (Chapter 4, Section VI). The enforcement of these statutes and regulations constitute an integral part of the operation of the management program.

Further, a detailed and comprehensie review procedure (Chapter 4, Section V) to be used by the DEM in reviewing Regulated Uses and uses regulated by the ACAMP has been established. This procedure provides for and ensures that review will entail coordination between the Department of Environmental Management and other Federal, State or local agencies.

#### D. Environmental Effects of the Proposed Action

A review of the Alabama Coastal Management Program policies which would be used as a basis for decision-making indicated that the probable effects of program implementation would be environmentally beneficial. However, there will probably be some adverse impacts to both the natural and socioeconomic environments.

Some impacts may be associated with the siting of major facilities for purposes of defense, transportation, energy requirements, and others in which both the State and Federal governments have interest. The location of these facilities may be less desirable due to their environmental impact. The program makes provisions for consideration of the siting of facilities which are in the national interest.

In order to protect certain environmentally critical areas, it may be necessary to direct these activities to less environmentally critical areas. For example, by directing dredge spoil disposal to upland areas or to offshore Gulf of Mexico areas, additional environmental stress may be placed on certain locations and/or resources.

Coastal Alabama must continue to rely on the contributions the tourist industry makes to the local economy. Continued development of tourism and recreation facilities appears necessary. This may result in increasing congestion of visitor destinations and their accessways.

The management program will provide long-term assurance that coastal resources and opportunities will be available for future use and enjoyment. To accomplish this end, the program's balanced approach may alter some local, short-term use of the environment as it manages coastal growth based on policies that provide for coastal resource use and natural resource protection.

These same policies provide for the maintenance of present levels of plants and animals. As each activity is reviewed by the DEM the

rules and regulations, based on ACAMP policies, will be applied as the standards for review. On a long-term basis, the level of coastal productivity will be assuredly higher than if no program had been instituted.

Approval of Alabama's Coastal Area Management Program revision will require a continued commitment of fiscal as well as human resources. Fiscal resources committed are Federal 306 grants and State matching funds as well as other monies needed to implement the program. Approval of Alabama's management program is not an irretrievable commitment of Federal monies. A decision to approve is a Federal action subject to modification or termination based upon review or performance under Subsection 312 (b) of the Coastal Zone Management Act.

Irretrievable or irreversible commitments of human resources include those man hours required of Federal, State and local governments for program implementation.

#### E. Means to Mitigate Adverse Environmental Impacts

In a very real sense the Alabama Coastal Area Management Program can be viewed as providing a set of mitigation measures which are to accompany coastal development; the program is not intended to preclude development in the Coastal Area. Mitigation measures may be attached to the approval of any regulated or non-regulated use in the form of "conditions". Compliance with the management program must be continuous.

The program's managment philosophy is to encourage economic growth while maintaining environmental quality. The Alabama Coastal Area Management Program will manage short—term uses in a balanced manner by taking into account both economic and environmental concerns. It recognized that some energy facilities and coastal dependent developments and activities have adverse environmental consequences, but they may still be located in the coastal zone to help provide orderly economic development, to consider the national interest, and to protect the inland environment.

# PART VI APPENDICES

APPENDIX A-1

§ 9-7

#### CHAPTER 7.

#### PRESERVATION, DEVELOPMENT, ETC., OF COASTAL AREAS.

Sec.	Sec.
9-7-1 through 9-7-9. Repealed. 9-7-10. Definitions.	9-7-16. Same — Promulgation of rules and regulations.
9-7-11. Purpose of chapter; legislative findings. 9-7-12. Declaration of state policy. 9-7-13. Activities deemed permissible uses within coastal area: deter-	9-7-17. Approval by governor of management program and rules and regulations of board. 9-7-18. Coastal area advisory committee.
mination of additional permissible uses.	9-7-19. Coastal area board fund. 9-7-20. Requirements as to permits generally;
9-7-14. Coastal area board — Created: composition; qualifications, appointment, term of office and compensation of members; officers: meetings: seal; powers and duties generally; executive director and employees; technical assistance to board; acceptance, use and disposition of funds, facilities, etc.	regulation of uses of lands within coastal area by local government units; filing with board copies of applications for federal permits. 9-7-21. Appeals from issuance, denial, etc., of permits. 9-7-22. Proceedings for enforcement of provisions of chapter; penalties and remedies for violations of provisions of chapter.
9-7-15. Same - Development of coastal area	

§§ 9-7-1 through 9-7-9. Repealed by Acts 1976, No. 534, p. 686, § 15, effective August 23, 1976.

#### § 9-7-10. Definitions.

management program.

The following terms, whenever used in this chapter shall have the following respective meanings unless the context clearly indicates otherwise:

- (1) Coastal Area. The coastal waters, including the lands therein and thereunder, and the adjacent shorelands, including the waters therein and thereunder, strongly influenced by each and in proximity to the shorelines of Alabama and including transitional and intertidal areas, salt marshes, wetlands, and beaches. The area extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters.
- (2) Coastal waters. Those waters, adjacent to the shoreline, which contain a measurable quantity or percentage of sea water, including but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.
- (3) Estuary. That part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage.
- (4) ESTUARINE SANCTUARY. A research area which may include any part or all of an estuary, adjoining transitional areas and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

- (5) Management program. Such term includes, but is not limited to, a comprehensive statement in words, maps, illustrations or other media of communication, prepared and adopted by the state in accordance with the provisions of this chapter, setting forth objectives, policies and standards to guide public and private users of lands and waters in the coastal area.
- (6) Water use. Activities which are conducted in or on the water, but such term does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria or regulations which are incorporated in any program as required by the provisions of this chapter.
- (7) BOARD. The board established under this chapter. (Acts 1976, No. 534, p. 686, § 3.)

Code commissioner's note. — The word U.S. Code. — As to Coastal Zone "not" has been inserted between "but" and Management Act of 1972, see 16 U.S.C.A. "limited to" in subdivision (2) in order to clarify \$ 1451 et seq. the obvious intent of the legislature.

#### § 9-7-11. Purpose of chapter; legislative findings.

The purpose of this chapter is to promote, improve and safeguard the lands and waters located in the coastal areas of this state through a comprehensive and co-operative program designed to preserve, enhance and develop such valuable resources for the present and future well-being and general welfare of the citizens of this state. In promulgating such a program, the legislature of Alabama recognizes and declares that:

- (1) The coastal area is rich in a variety of natural, commercial, recreational, industrial and aesthetic resources of immediate and potential value to the present and future well-being of the state;
- (2) There are increasing and competing demands upon the lands and waters of the coastal area occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal and harvesting of fish, shellfish and other living marine resources;
- (3) The coastal area and the fish, shellfish, other living marine resources and wildlife therein are ecologically fragile and consequently vulnerable to destruction by man's alterations:
- (4) Important ecological, cultural, historic and aesthetic values to the coastal area are essential to the well-being of all citizens;
- (5) Special natural and scenic characteristics may be damaged by ill-planned development:
- (6) There is a state interest in the effective administration, beneficial use, protection and development of the coastal area:
- (7) In light of competing demands and the urgent need to balance development for the preservation of the natural systems in the coastal area, the key to more effective protection and use of land and water resources of

the coastal area is to encourage the state to exercise its authority for improved and better methods of utilizing the lands and waters in the coastal area by developing, in cooperation with counties and municipalities and other vitally affected interests, land and water use programs for the coastal area, including unified policies, criteria, standards, methods and processes for dealing with land and water use. (Acts 1976, No. 534, p. 686, § 1.)

#### § 9-7-12. Declaration of state policy.

The legislature finds and declares that it is state policy:

- (1) To preserve, protect, develop and, where possible, to restore or enhance the resources of the state's coastal area for this and succeeding generations;
- (2) To encourage and assist counties and municipalities, wherever applicable, to exercise effectively their responsibilities in the coastal area through the development and implementation of administration programs to achieve wise use of the land and water resources of the coastal area, giving full consideration to needs for economic development as well as to ecological, cultural, historic and aesthetic values;
- (3) To assure that in development of the state's coastal area adequate consideration is given to such uses of the coastal area as the establishment of harbor facilities for the receiving of oil, gas and other commodities from ships and tankers, pipelines from such ports and utility plant sites, utility generation, transmission, distribution and transportation facilities;
- (4) To urge that all state agencies engaged in programs affecting the coastal area cooperate and participate with local governments and regional agencies in effectuating the purposes of this chapter; and
- (5) To encourage the participation of the public, of federal, state and local governments and of regional agencies in the development of coastal area management programs. With respect to implementation of such management programs, it is the state policy to encourage cooperation among the various state and regional agencies, including establishment of interstate and regional agreements, cooperative procedures and joint action, particularly regarding environmental problems. (Acts 1976, No. 534, p. 686, § 2.)

### § 9-7-13. Activities deemed permissible uses within coastal area; determination of additional permissible uses.

- (a) The legislature of Alabama finds that the following activities shall constitute permissible uses within the coastal area:
  - (1) The accomplishment of emergency decrees of any duly appointed health officer of a county or municipality or of the state acting to protect the public health and safety:
  - (2) The conservation, repletion and research activities of the Marine Environmental Sciences Consortium, the marine resources division of the department of conservation and natural resources and the Mississippi-Alabama Sea Grant Consortium;

- (3) The exercise of riparian rights by the owner of the riparian rights; provided, that the construction and maintenance of piers, boathouses and similar structures shall be on pilings that permit a reasonably unobstructed ebb and flow of the tide;
- (4) The normal maintenance and repair of bulkheads, piers, roads and highways existing on the date of final approval of the rules and regulations pursuant to this chapter;
- (5) The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling;
- (6) Normal maintenance and repair activities of railroads and of utilities or other persons engaged in transportation or in telephone communication service or in the distribution or transmission of gas, electricity or water or the collection of sewage, including inspecting, maintaining, repairing or renewing on private or public rights-of-way any sewers, mains, conduits, pipes, cables, utility tunnels, power lines, towers, poles, tracks, bridges, trestles and drainage facilities or the like or making service connections thereto or inspecting, maintaining, repairing or renewing any substation, pumping or lifting facility;
- (7) Activities of any mosquito control commission which is a political subdivision or agency of the state of Alabama;
- (8) The use of any land for the purpose of planting, growing or harvesting plants, crops, trees or other agricultural or forestry products, including normal private road construction, raising livestock or poultry or for other agricultural purposes; and
- (9) Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to final approval of the rules and regulations pursuant to this chapter and which development was initiated prior to such approval.
- (b) The board shall determine, by rule and regulation, from time to time, additional permissible uses within the coastal area. (Acts 1976, No. 534, p. 686, § 4.)

Code commissioner's note. — The words in order to clarify the obvious intent of the "shall be" have been substituted for "are constructed" in subdivision (3) of subsection (a)

- § 9-7-14. Coastal area board Created; composition; qualifications, appointment, term of office and compensation of members; officers; meetings; seal; powers and duties generally; executive director and employees; technical assistance to board; acceptance, use and disposition of funds, facilities, etc.
  - (a) There is hereby created the Alabama coastal area board.
- (b) Members of the board shall consist of: the director of the office of state planning of the Alabama development office; the director of the marine resources division of the department of conservation and natural resources; a member of the Mobile city commission; a member of the Mobile county

commission; a member of the Baldwin county commission; the state geologist; the director of the Marine Environmental Sciences Consortium; one official of a municipality in Baldwin county, who is a member of and selected by the Baldwin county Mayor's Association; and the chairman of the coastal area advisory committee provided for in section 9-7-18.

- (c) The term of office of each board member shall be consistent with his elective or appointed office. The member from the Mobile city commission and the Baldwin and Mobile county commissions shall be elected by the membership of their respective commissions.
- (d) The chairman of the board shall be elected by the members of the board and shall serve as chairman at the pleasure of the board. The board shall designate from time to time any other member as acting chairman who shall serve in the absence of the Chairman.
- (e) A quorum for the transaction of business shall consist of at least five members. A majority of those members voting shall be required to pass any motion before the board. However, in adopting its rules and regulations a minimum of two thirds of the board's membership must vote in the affirmative. The board shall have an official seal which shall be judicially noticed.
- (f) Members shall receive no additional compensation for serving on the board, but shall be reimbursed for expenses of travel and subsistence in the discharge of their official duties at the rate provided by law.
- (g) The board shall meet quarterly and shall meet in special sessions as occasion demands upon the call of the chairman. All meetings shall be open to the public and an accurate record of all proceedings shall be kept and made available for public inspection. All members shall be voting members.
- (h) The board shall have authority to solicit, accept and expend funds from the state, the United States and from any other source, to carry out the provisions, purposes and policies of this chapter.
- (i) The board shall coordinate activities and plans of all existing interests, other state governments, local governments, regional planning agencies, interstate compacts and commissions and federal agencies which have programs relevant to the coastal area.
- (j) When necessary to achieve conformance with the management program provided for in section 9-7-15, the board shall have the power to acquire fee simple and less than fee simple interest in land, water and other property under the procedures of Title 18 of this Code, or other means; provided, however, that such power shall not apply to property and interest therein which is devoted to public use. In the implementation of this chapter no governmental agency shall adopt a rule or regulation that is unduly restrictive or constitutes a taking of property without payment or full compensation in accordance with the Constitution of the state of Alabama or of the United States.
- (k) The board is authorized to employ an executive director to serve at the will of the board. The executive director, under policies adopted by the board, shall manage the executive and administrative functions of the board and the board's general operations and shall serve as chief administrative officer of the board. The executive director, in addition to his usual functions, shall be secre-

tary to the coastal area board. The board shall fix the compensation of the executive director. The executive director, subject to board approval, shall employ necessary engineers, attorneys, accountants, technical personnel and other employees necessary to carry out the provisions of this chapter. Employees of the board are entitled to compensation as provided by the board. The executive director shall keep complete and accurate minutes of all transactions and proceedings of the board. The executive director shall be the custodian of all files and records of the board.

- (I) The board is authorized to call upon and/or contract with such other state agencies including universities to provide such technical assistance as might be needed from time to time to develop and carry out the management program. The cost of such technical assistance shall be reimbursable to the agency furnishing such assistance on an actual cost basis.
- (m) (1) Subject to subdivision (2) of this subsection, after 120 days from August 23, 1976, the board shall provide for the orderly transfer by the state planning office of all of the state planning office functions under Act 1274 of the 1973 regular session, to the office and staff directed and hired by the coastal area board, and accordingly there shall be established in the Gulf Coast area an office to carry out the functions, responsibilities and duties presently delegated to the office of state planning and otherwise to effectuate the provisions of this chapter.
  - (2) The board shall take the steps to implement subdivision (1) of this subsection only after there has been appropriated by the legislature of Alabama the sum of \$40,000.00 for the purpose of implementing the provisions of this chapter or, in the alternative, the board has acquired by gift, donation, grant or bequest or appropriation from federal, county or municipal government or services in kind by another state agency or agencies a sum equal to \$40,000.00 or, in the event the board in its judgment and the exercise of prudence feels that it may assume the functions, responsibilities and duties set out in subdivision (1) of this subsection without the receipt of such moneys, the board is hereby authorized to notify the governor and the state planning office of its readiness to assume the state planning office functions under Act 1274 of the 1973 regular session.
- (n) Pursuant to the provisions of subsection (m) of this section, the board is authorized to accept and use such funds, facilities or personnel as may be or may become available for the purposes of this chapter. (Acts 1976, No. 534, p. 686, §§ 5, 14.)

Code commissioner's note. — Act 1274 of subsection (m) of this section, was codified as the 1973 regular session, referred to in former sections 9-7-1 through 9-7-9.

#### § 9-7-15. Same — Development of coastal area management program.

The board shall provide for the development of a comprehensive coastal area management program. The program shall be prepared in cooperation with local, regional, state and federal interests. The inland boundaries of the coastal area subject to the management program are described as follows: begin at the

southernmost point on the Mississippi-Alabama state line where the land surface elevation reaches 10 feet above mean sea level and continue in a general easterly direction along the 10-foot contour to the proximity of Mobile bay; continue in a northerly direction on the 10-foot contour along the western shore of Mobile bay and the Mobile river delta to the north line of Mobile county; thence southeastward along the north line of Mobile county to the intersection with the Baldwin county lines in the Mobile river; thence along the west and north lines of Baldwin county in the Mobile and Alabama rivers to the intersection of the southwest corner of Monroe county; thence eastward along the Baldwin county line to the intersection of the westernmost point of Baldwin county where the land surface altitude reaches 10 feet above mean sea level; thence along the 10-foot contour in a southwesterly and southern direction along the Alabama river, the Mobile river delta and the east shore of Mobile bay to the proximity of Bon Secour; thence continue along the 10-foot contour in an easterly and northeasterly direction to the Alabama-Florida state line.

The program shall include at least the following:

- (1) Identification of all of the state's coastal resources;
- (2) Evaluation of these resources in terms of their quality, quantity and capability for their use both now and in the future;
- (3) Determination of the present and potential uses and the present and potential conflicts in the uses of each coastal resource;
- (4) An inventory and designation of areas of particular concern within the coastal area;
  - (5) Broad guidelines on priority of uses in particular areas;
- (6) Provision for adequate consideration of the local, regional, state and national interest involved in the siting of facilities for the development, generation, transmission and distribution of energy, adequate transportation facilities and other public services necessary to meet requirements which are other than local in nature;
- (7) Provision for consideration of whether a proposed activity of an applicant for a federal license or permit complies with the state's coastal area program and for the issuance of notice to any concerned federal agency as to whether the state concurs with or objects to the proposed activity;
- (8) Adequate provision for public notice, public hearings and judicial review as provided for under Alabama law; and

The management program shall determine permissible land and water uses which have a direct and significant impact within the boundaries of the coastal area and must give due consideration to requirements for agriculture, industry, commerce, resource conservation, residential development, recreation, extraction of mineral resources and fossil fuels, harvesting of timber and pulpwood, transportation and navigation, waste disposal and harvesting of fish, shellfish and other living marine resources. (Acts 1976, No. 534, p. 686, § 6.)

Cross reference. — As to requirement for approval by governor of management program, see § 9-7-17.

#### § 9-7-16. Same — Promulgation of rules and regulations.

The board shall develop and promulgate, after notice and opportunity for full participation by relevant federal agencies, state agencies, local governments, regional organizations, port authorities and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the management program provided for in this chapter. (Acts 1976, No. 534, p. 686, § 7.)

Cross reference. — As to requirement for approval by governor of rules and regulations promulgated by board, see § 9-7-17.

Collateral references. — 81A C.J.S., States, \$136.

## § 9-7-17. Approval by governor of management program and rules and regulations of board.

- (a) The management program provided for in section 9-7-15 shall not become effective until approved by the governor.
- (b) Any rule or regulation proposed by the board shall not become effective until approved by the governor. (Acts 1976, No. 534, p. 686, § 10.)

#### § 9-7-18. Coastal area advisory committee.

There is hereby established the coastal area advisory committee whose purpose shall be to advise the board on matters concerning the coastal area. The committee membership shall be composed of 14 persons having a broad range of experience and knowledge relating to problems involving management, use, conservation, protection and development of coastal area resources. Members selected shall represent a broad segment of industry and commerce, conservation and protection groups within the coastal area, farming and forestry within the coastal area, fishing and marine transport within the coastal area, building and land development within the coastal area and planning and engineering within the coastal area.

The county commissions of Mobile and Baldwin counties shall solicit nominations from various public, private, civic and professional groups representing the above interests for membership on the coastal area advisory committee and each county commission shall select seven persons for membership, assuring that at least one half of the committee membership shall be residents of Baldwin county and at least one half of the committee membership shall be residents of Mobile county. In addition, a majority of those members selected from each county shall either reside and/or own property within the management program of the coastal area. The members so selected shall serve for a period of one year from the date of their appointment and shall be eligible for reappointment. The total committee membership of 14 so selected by their respective county commissions shall elect a chairman who

shall serve at the pleasure of the coastal area advisory committee and who by virtue of such office shall serve as a voting member of the coastal area board. (Acts 1976, No. 534, p. 686, § 9.)

Code commissioner's note. — The words "shall be to advise the board" have been inserted following "purpose" in the first sen-

tence in order to clarify the obvious intent of the legislature.

#### § 9-7-19. Coastal area board fund.

There is hereby created a fund which shall be known as the Alabama coastal area board fund. This shall consist of:

- (1) all money appropriated to the board by the legislature of the state of Alabama;
- (2) all money received by the board by appropriation from county or municipal governments;
- (3) all gifts, grants, bequests or donations from individuals, associations, corporations or industries;
  - (4) all money derived through any source of federal aid; and
- (5) all other moneys accruing to the board in accordance with the terms of the gift, grant, bequest, appropriation or donation from which said money is derived.

The funds shall be expended by the board in furtherance of any of the provisions of this chapter. All necessary expenses of the board shall likewise be paid out of said fund. (Acts 1976, No. 534, p. 686, § 5.)

Collateral references. — 81A C.J.S., States, § 223.

## § 9-7-20. Requirements as to permits generally; regulation of uses of lands within coastal area by local government units; filing with board copies of applications for federal permits.

- (a) It is the intent and purpose of this section to avoid duplicity whenever possible as to managing activities within the coastal area and yet assure compliance with the management program established by the board.
- (b) No additional permit shall be required from the board where the proposed action requires a permit from the Alabama water improvement commission, the Alabama air pollution control commission, the Alabama oil and gas board, the Alabama department of conservation and natural resources or any other agency having jurisdiction of an action within the coastal area. The above mentioned agencies shall not issue a permit for any activity or action within the boundaries of the coastal area until there has been a determination by the board that any permit issued by the above agencies will be in compliance with the management program of the board. The board shall act on any such request for determination of compliance within 45 calendar days of receipt of such request. Failure of the board to act within said time limit shall be a ground upon which the party seeking the permit may apply to any

court of competent jurisdiction for a writ of mandamus compelling the board to act within 10 days after the date of such court order, and the court must grant such order upon the ex parte showing that the board has failed to act within said 45-day limit.

- (c) There may well be uses of certain lands included within the boundaries of the coastal area which will not have a "direct and significant" impact on coastal waters. Such uses may be subject to regulation by local units of government (cities or counties) within the framework of the management program adopted by the board.
- (d) Any person, corporation or partnership filing an application for a federal permit for an activity to be conducted within the boundaries of the coastal area shall deliver to the board an informational copy of such application. (Acts 1976, No. 534, p. 686, § 8.)

Cross references. — As to department of conservation and natural resources, see § 9-2-1 et seq. As to oil and gas board, see § 9-17-3 et seq. As to water improvement commission, see

§ 22-22-3 et seq. As to air pollution control commission, see § 22-28-5 et seq.

Collateral references. — 63 Am. Jur. 2d, Property, § 44.

#### § 9-7-21. Appeals from issuance, denial, etc., of permits.

- (a) An appeal may be taken by any person or persons, partnership, corporation, state or local government entity aggrieved by an order of the board which has resulted in the denial, suspension or revocation of a permit or the issuance of a permit or a conditional permit within the coastal area. Before such appeal will lie, written protest setting forth the basis of the appeal must be filed with the board within 30 days of the final board action.
- (b) After an appeal has been filed as provided for in subsection (a) of this section, the board may conduct such further inquiry into the matter as might be appropriate. The appellant shall be given an opportunity to introduce testimony, both written and oral, to support the appeal to the board. The chairman of the board shall have wide discretion in the manner of conducting the appeal.
- (c) If the board denies an appeal as provided for in subsections (a) and (b) of this section, the aggrieved party may appeal the order of the board denying such appeal to the circuit court of the county in which the property affected by the order of the board is located. If the court finds that the order appealed from is supported by substantial evidence, is consistent with the public policy set forth in this chapter, is not arbitrary or capricious and does not violate constitutional rights, it shall affirm the board's order. (Acts 1976, No. 534, p. 686, § 11.)

## § 9-7-22. Proceedings for enforcement of provisions of chapter; penalties and remedies for violations of provisions of chapter.

(a) The state of Alabama at the request of the board, a district attorney having jurisdiction or an assistant district attorney having jurisdiction may

initiate an action against any person or persons, partnership, corporation, state or local government entity if in the judgment of the board such party is determined to be in violation of the management program of the board.

- (b) Jurisdiction and venue for judicial actions brought pursuant to this chapter shall lie in any county or counties in which the alleged violation occurs or in which property affected by such violation is located.
- (c) Threatened or actual violations of this chapter may be restrained by order of the circuit court of the county in which any affected area of the coastal area or any part thereof lies. Such actions shall be initiated as provided for in subsection (a) of this section.
- (d) Nothing in this chapter shall preclude other statutory or common-law remedies by public or private parties against violators or nonviolators of this chapter. (Acts 1976, No. 534, p. 686, § 12.)

Collateral references. — 81A C.J.S., States, § 36.

APPENDIX A-2
ACT 82-612

Each Probate Judge, Sheriff, District Court Clerk, and the Clerk and Register of the Circuit Court is required by law to preserve this slip or pamphlet in a book kept in his office until the Act is published in permanent form.

#### **ALABAMA LAW**

(Regular Session, 1982)

Act No. 82-612

S. 47-Mr. White and Mr. Holmes

#### AN ACT

To provide for the creation and organization of the Alabama Department of Environmental Management; to provide for legislative intent and purposes of the Act; to provide for definitions; to provide for powers and functions of the Department; to provide for an Environmental Management Commission within the Department; to provide for powers and functions of the Environmental Management Commission; to provide for appeals of administrative actions; to provide for adopting rules and regulations; to provide for the transfer of functions and personnel; to provide for the repeal of, exemption from or amendment of certain sections of the Code of Alabama 1975, as amended; to provide for the creation of the Alabama Department of Environmental Management Fund; to provide for the transfer of personnel, funds, functions, and equipment of the Coastal Area Board to the Office of State Planning and Federal Programs; to provide for the creation of a Coastal Resources Advisory Committee; to provide for the severability of provisions of the Act; and to provide for an effective date of this Act.

#### Be It Enacted by the Legislature of Alabama

Section 1. Title. This Act shall be known and may be cited as "the Alabama Environmental Management Act."

- Section 2. Legislative Intent and Purposes of the Act. The Legislature finds the resources of the State must be managed in a manner compatible with the environment, and the health and welfare of the citizens of the State. To respond to the needs of its environment and citizens, the State must have a comprehensive and coordinated program of environmental management. It is therefore the intent of the Legislature to improve the ability of the State to respond in an efficient, comprehensive and coordinated manner to environmental problems, and thereby assure for all citizens of the State a safe, healthful and productive environment.
- (a) To this end an Alabama Department of Environmental Management is created by this Act within the Executive Branch of State government in order to effect the grouping of State agencies which have primary responsibility for administering environmental legislation into one department, to promote economy and efficiency in the operation and management of environmental programs, to eliminate overlapping or duplication of effort within the environmental programs of the State, to provide for timely resolution of permitting actions, to improve services to the citizens of the State, to protect

human health and safety, to develop and provide for a unified environmental regulatory and permit system, to provide that the responsibility within the Executive Branch for the implementation of environmental programs and policies is clearly fixed and ascertainable, and to insure that government is responsive to the needs of the people and sufficiently flexible to meet changing conditions.

- (b) It is also declared to be the intent of the Legislature to retain for the State, within the constraints of appropriate federal law, the control over its air, land and water resources and to secure cooperation between agencies of the State, agencies of other states, interstate agencies and the federal government in carrying out these objectives.
- (c) It is the intent of the Legislature to recognize the unique characteristics of the Alabama coastal region and to provide for its protection and enhancement through a continued coastal area program.
- (d) It is not the intent of the Legislature to abrogate any of the powers or duties of the state board of health which are found in §§ 22-2-1 through 22-2-14 Code of Alabama 1975, as amended.
- Section 3. Definitions. For the purposes of this Act, the following words and phrases, unless a different meaning is plainly required by the context or by legislation governing functions transferred by this Act, shall have the following meanings.
- (a) "Department" when used in this Act means the Alabama Department of Environmental Management, established by this Act.
- (b) "Director" when used in this Act means the Director of the Alabama Department of Environmental Management.
- (c) "Division" means a subdivision of the Alabama Department of Environmental Management, which may be headed by a Division Chief. Such divisions may be divided into sections where appropriate.
- (d) "Environmental Management Commission" shall mean the Environmental Management Commission of the Alabama Department of Environmental Management.
- (e) "Function(s)" means a duty, power or progam exercised by or assigned to a commission, board or the State Health Department, including all positions and personnel relating to the performance of such function, unless otherwise provided by this Act.
- (f) "Hearing Officer" means an attorney licensed to practice law in the State of Alabama, designated by the Environmental Management Commission to hear appeals for the Environmental Management Commission and to make findings of fact, conclusions of law

and recommendations to the Environmental Management Commission for its final decision.

- (g) "Person" means any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal entity or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.
- (h) "Administrative Action(s)" means the issuance, modification, repeal or denial of any permit, license, certification, or variance, or the issuance, modification or repeal of any order, notice of violation, citation, rule or regulation by the Department.
- (i) All definitions of the Alabama Water Pollution Control Act, § 22-22-1 Code of Alabama 1975, as amended, shall be the definitions of the Department for its water pollution control program.
- (j) All definitions found in § 22-23-31 Code of Alabama 1975, as amended, relating to safe drinking water, shall be the definitions of the Department for its safe drinking water program.
- (k) All definitions of the Alabama Air Pollution Control Act, § 22-28-2 Code of Alabama 1975, as amended, shall be the definitions of the Department for its air pollution control program.
- (1) All definitions found in § 22-24-1 Code of Alabama 1975, as amended, relating to water well standards, shall be the definitions of the Department for its water well standards program.
- (m) All definitions found in § 22-25-1 Code of Alabama 1975, as amended, relating to water and wastewater systems and treatment plants, shall be the definitions of the Department for its water and wastewater systems and treatment plant operator program.
- (n) All definitions found in § 22-27-2 Code of Alabama 1975, as amended, relating to solid wastes, shall be the definitions of the Department for its solid waste program.
- (o) All definitions found in § 9-7-10 Code of Alabama 1975, as amended, relating to the coastal area management program, shall be the definitions of the Department and the Office of State Planning and Federal Programs for their coastal area program.
- (p) All definitions found in § 22-30-3 Code of Alabama 1975, as amended, relating to hazardous wastes, shall be the definitions of the Department for its hazardous waste program.
- Section 4. Alabama Department of Environmental Management.

- (a) There is hereby created and established the Alabama Department of Environmental Management to carry out the purposes of this Act and to administer and enforce the provisions of this Act and all functions transferred to the Department by this Act. The Department shall maintain its principal office in the City of Montgomery, Montgomery County, Alabama.
- The Department shall be under the supervision and control of an officer who shall be designated as the Director of the Alabama Department of Environmental Management. The Director shall be an individual knowledgeable and experienced in environmental matters. The Director shall employ such officers, agents and employees as he deems necessary to properly administer and enforce the programs and activities of the Department and to fully implement the requirements of this Act and the intent of the Legislature. All powers, duties and functions transferred to the Department by this Act, except those specifically granted to the Environmental Management Commission shall be performed by the Director; provided that the Director may delegate the performance of such of his powers, duties and functions, to employees of the Department, wherever it appears desirable and practicable in fulfilling the policies and purposes of this Act. The Director shall be appointed by and serve at the pleasure of the Environmental Management Commission. The Director shall be exempt from the Merit System Act. The pay of the Director shall be set by the Environmental Management Commission and shall be consistent with that of cabinet level appointees.
- (c) There shall be a Deputy Director of the Department who shall be a merit system employee. The Deputy Director shall assist the Director and shall have charge and general supervision of the Department in the absence or disability of the Director. In the case of a vacancy in the office of Director, the Deputy Director shall become the Acting Director of the Department and shall have the full powers of the Office of Director until the Environmental Management Commission appoints a successor to the Director.
- (d) The Department shall be divided into such divisions as the Director deems appropriate. Each division shall be supervised by a Division Chief who shall be selected by the Director and shall be a merit system employee.
- (e) The functions of the Air Pollution Control Commission and of the Division of Air Pollution Control in the State Health Department as set forth in §§ 22-28-1 through 22-28-23 Code of Alabama 1975, as amended, are transferred to the Department on October 1, 1982.
- (f) The functions of the Water Improvement Commission, as set forth in §§ 22-22-1 through 22-22-14 Code of Alabama 1975, as amended, are transferred to the Department on October 1, 1982.

- (g) The functions of the State Health Department with respect to public water systems, as set forth in §§ 22-23-30 through 22-23-53 Code of Alabama 1975, as amended, are transferred to the Department on October 1, 1982.
- (h) The functions of the Alabama Water Well Standards Board, as set forth in §§ 22-24-1 through 22-24-12 Code of Alabama 1975, as amended, are transferred to the Department on October 1, 1982.
- (i) The functions of the State Health Department with respect to solid waste collection and disposal, as set forth in § § 22-27-1 through 22-27-7 Code of Alabama 1975, as amended, which are specified below. are transferred to the Department on October 1, 1982. Specifically, those functions of \$ 22-27-3 relating to the location and control of solid waste disposal by sanitary landfill, incineration, or composting; and the burning of solid wastes are transferred to the Department. Those provisions of § 22-27-4 relating to the control of unauthorized dumping are transferred to the Department. Those provisions of § 22-27-5 relating to the issuance of permits to individuals or corporations engaging in the disposal of solid wastes are transferred to the Department. Those provisions of § 22-27-7 relating to the supervision and regulation of solid waste management are transferred to the Department. Nothing in this Act shall be construed to limit or curtail the authority of the State Health Department in the realm of sanitation or disease control and prevention, or in any matters relating to the public health which are not specifically transferred to the Department by this Act on October 1, 1982. Nothing in the Act should be construed to transfer any function relating to collection of solid waste to the Department. Such functions shall remain with the State Health Department or County Health Department as appropriate.
- (j) Any permitting, regulatory and enforcement functions of the Coastal Area Board, as set forth in §§ 9-7-10 through 9-7-22 Code of Alabama 1975, as amended, are transferred to the Department on October 1, 1982.
- (k) The functions of the State Health Department, with respect to hazardous waste management, as set forth in §§ 22-30-1 through 22-30-24 Code of Alabama 1975, as amended, are transferred to the Department on October 1, 1982.
- (l) The functions of the Environmental Health Administration Laboratory of the State Health Department are transferred to the Department on October 1, 1982.
- (m) The functions of the Board of Certification of Water and Wastewater Systems Personnel and the functions of the State Health Officer as set forth in §§ 22-25-1 through 22-25-15 Code of Alabama 1975, as amended, are transferred to the Department on October 1, 1982.

- (n) Beginning October 1, 1982, the Department is hereby designated as the State environmental control agency for the purposes of Federal environmental law. Specifically, the Department is designated as the State air pollution control agency for the purposes of the Federal Clean Air Act, 42 U.S.C. 7401 et seq., as amended; as the State water pollution control agency for the purposes of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., as amended; the State agency responsible for the promulgation and enforcement of drinking water regulations in accordance with the Federal Safe Drinking Water Act, 42 U.S.C.A. 201 et seq., as amended; the State agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the Solid Waste Disposal Act, 42 U.S.C. 3251 et seq., as amended, including 42 U.S.C. 6901 et seq., as amended; and is hereby authorized to take all actions necessary and appropriate to secure to this State the benefits of Federal environmental laws.
- (o) Beginning October 1, 1982, the State Health Department shall provide certain routine bacteriological analyses to the Alabama Department of Environmental Management and the Department shall reimburse the State Health Department for the reasonable costs and expenses incurred in providing such analyses. For an appropriate period of time, the Department shall contract with the State Health Department to provide the routine bacteriological analyses necessary to the Department in its public water systems program.
- Section 5. Powers and Functions of the Department. In addition to any other powers and functions which may be conferred upon it by law, the Department is authorized beginning October 1, 1982, to:
- (a) Administer appropriate portions of §§ 9-7-10 through 9-7-22 Code of Alabama 1975, as amended, which relate to permitting, regulatory and enforcement functions: administer and enforce the provisions and execute the functions of the Alabama Air Pollution Control Act of 1971, as amended; the Alabama Water Pollution Control Act, as amended; the Alabama Safe Drinking Water Act of 1977, as amended; the Hazardous Waste Management Act of 1978, as amended; appropriate portions of the Solid Waste Disposal Act, as amended; §§ 22-24-1 through 22-24-11 Code of Alabama 1975, as amended; §§ 22-25-1 through 22-25-15 Code of Alabama 1975, as amended;
- (b) Acting through the Environmental Management Commission, promulgate rules, regulations and standards in order to carry out the provisions and intent of this Act; provided, however, that prior to the promulgation of any state primary or secondary drinking water standard governed by §§ 22-23-30 through 22-23-53 Code of Alabama 1975, as amended, or any regulations dealing with hazardous wastes governed by §§ 22-30-1 through 22-30-24 Code of Alabama 1975, as

amended, the Department shall receive the approval of the State Board of Health. The State Board of Health shall provide the Department a response to its request for approval within 60 days of receipt of such request unless such other time is mutually agreed upon by the Department and the State Board of Health.

- (c) Acting through the Environmental Management Commission adopt and promulgate rules, regulations and standards for the Department, and to develop environmental policy for the State;
- (d) Consistent with the provisions in § 4(n) of this Act, serve as the State agency responsible for administering federally approved or federally delegated environmental programs:
- (e) Serve as the State's clearinghouse for environmental data. The clearinghouse shall be developed in coordination and cooperation with other governmental data collection and record keeping systems to provide for an inventory, and for the cataloguing and dissemination of environmental information;
- (f) Report, as appropriate, to the Governor and to the Legislature on the programs and activities of the Department and to recommend needed changes in legislation or administrative practice;
- (g) Develop, conduct and disseminate education and training programs. Pursuant to this authority, the Department shall establish a citizens' advisory committee to provide input into such education and training programs.
- (h) Enter into agreements and contracts, where appropriate, with other State agencies, the Federal Government or private individuals, in order to accomplish the purposes of this Act;
- (i) Establish and maintain regional or field offices in order to provide more effective and efficient service to the citizens of the State;
- (j) Issue, modify, suspend or revoke orders, citations, notices of violation, certifications or permits;
- (k) Hold hearings relating to any provision of this Act or relating to the administration thereof;
- (1) To enforce all provisions of this Act and to file legal actions in the name of the Department, and to prosecute, defend or settle actions brought by or against the Department or its agents. The Attorney General shall represent the Department in any and all legal actions brought by the Department to enforce any provisions of this Act; provided however, that if, within a reasonable time after the Department refers the matter to him, he fails to file any such action, then the Department may commence appropriate legal action. Nothing in this subsection shall be construed so as to impair the authority

of the Attorney General to independently enforce the provisions of this Act;

- (m) When necessary to achieve conformance with §§ 9-7-10 through 9-7-22 Code of Alabama 1975, as amended, acquire fee simple or less than fee simple, interest in land, water and other property under the procedures of Title 18 of the Code of Alabama 1975, as amended, or other means, provided, however, that such power shall not apply to property and interest therein which is devoted to public use:
- (n) Apply for, where appropriate, accept, receive and administer grants or other funds or gifts from public and private agencies, including the Federal Government, for the purpose of carrying out any of the functions, purposes or provisions of this Act or any of the functions or provisions transferred to the Department by this Act;
- (0) Employ such professional, technical, clerical and other workers including attorneys and special counsel, and such consultants as are necessary and within available funds to carry out the purposes of this Act; and
- (p) Perform any other duty or take any other action necessary for the implementation and enforcement of this Act.

# Section 6. Environmental Management Commission.

- (a) There is hereby created a seven member Environmental Management Commission of the Alabama Department of Environmental Management which shall have the following duties:
- (1) to select a Director for the Department of Environmental Management and to advise the Director on environmental matters which are within the Department's scope of authority;
- (2) to establish, adopt, promulgate, modify, repeal and suspend any rules, regulations or environmental standards for the Department which may be applicable to the State as a whole or any of its geographical parts;
  - (3) to develop environmental policy for the State; and
  - (4) to hear and determine appeals of administrative actions.
- (b) The Environmental Management Commission shall be composed of seven members who are citizens of the State of Alabama. Initial members of the Commission shall be appointed to places on the Environmental Management Commission by the Governor, Lieutenant Governor, and Speaker of the House of Representatives pursuant to the procedure set out in Section 6(d) of this act with the advice and consent of the Senate. Initial appointments shall be

made on or before October 1, 1982. All subsequent appointments to places on the Environmental Management Commission after the initial appointments shall be made by the Governor with the advice and consent of the Senate. No member of the Environmental Management Commission may serve more than a total of eighteen years. When a vacancy occurs during a period when the Legislature is not in session to advise and consent, such appointee shall have the full power of the office until and unless the Senate, upon the reconvening of the Legislature, shall by affirmative vote refuse to consent in such appointment. Qualifications of the seven members shall be as follows:

- (1) One member shall be a physician licensed to practice medicine in the State of Alabama and shall be familiar with environmental matters:
- (2) One member shall be a professional engineer registered in the State of Alabama and shall be familiar with environmental matters;
- (3) One member shall be an attorney licensed to practice law in the State of Alabama and shall be familiar with environmental matters;
- (4) One member shall be a chemist possessing as a minimum a bachelor's degree from an accredited university or a veterinarian licensed to practice veterinary medicine in the State of Alabama and shall be familiar with environmental matters;
- (5) One member that has been certified by the National Water Well Association Certification program; and
- (6) One member shall be a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university and shall have training in environmental matters; and
- (7) One member shall be a resident of the State for at least two years but shall not be required to have any specialized experience.
- (c) At the expiration of the terms of all members initially appointed, their successors shall be promptly appointed by the Governor for terms of six years. At the expiration of a term of office or in the event of a vacancy on the Environmental Management Commission, the Governor shall promptly make an appointment to fill the vacancy. The expiring term of an incumbent member shall be continued until an appointment is made.
- (d) Provided however that the initial appointments to the Environmental Management Commission shall be made as follows notwithstanding the other provisions of this act:
- (1) The Governor shall appoint three members of the Environmental Management Commission, two of whom shall come from the

voting members of the Boards or Commissions abolished by this act. The Governor's three initial appointments shall fill the positions described in Section 6(b) (4), (6), and (7) of this act. The terms of these initial position appointments shall be for six years.

- (2) The Lieutenant Governor shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the Boards or Commissions abolished by this act. The Lieutenant Governor's appointments pursuant to this subsection shall fill the positions described in Section 6(b) (1) and (5) of this act. The term of the initial position described in Section 6(b) (1) shall be for four years. The term of the initial position described in Section 6(b) (5) shall be for two years.
- (3) The Speaker of the House of Representatives shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the Boards or Commissions abolished by this act. The Speaker of the House of Representatives' appointments pursuant to this subsection shall fill the positions described in Section 6(b) (2) and (3) of this act. The term of the initial position described in 6(b) (2) shall be for four years. The term of the initial position described in Section 6(b) (3) shall be for two years.
- chairman from among its members, and the chairman's term of office shall be determined by the Environmental Management Commission, but shall not exceed three consecutive years. The Environmental Management Commission shall not take official action unless a quorum is present. A quorum shall be any four of the seven members. Recusal of a member shall not affect the quorum.
- (f) The Environmental Management Commission shall meet regularly, at least once every two months at times and places to be fixed by the Environmental Management Commission. Special meetings may be called at the discretion of the Chairman of the Environmental Management Commission and special meetings shall be called by him on written request of any four members to take up any matters within the jurisdiction of the Environmental Management Commission. All members shall be notified of the time and place of any regular or special meeting in any one of the following ways: in writing or by telegram to a member's last known address as provided to the Department or by telephone.
- (g) Any member of the Environmental Management Commission who misses three consecutive regularly scheduled meetings, shall immediately cease to be a member of the Commission and the Gover-

nor shall promptly appoint a new member with appropriate qualifications to fill the remainder of the term.

- (h) The Environmental Management Commission shall keep a complete and accurate record of the proceedings of all its meetings, a copy of which shall be kept on file in the office of the Director and open to public inspection.
- (i) (1) Each member shall receive one hundred dollars (\$100.00) per day for each day of attendance at an official meeting. Members of the Environmental Management Commission shall be reimbursed for expenses when attending meetings which are approved and certified by the Director. Reimbursement shall be in accordance with \$\$ 36-7-1 through 36-7-42 Code of Alabama 1975, as amended;
- (2) All proper expenses of the Environmental Management Commission shall be paid from the appropriations to or funds of the Department in the same manner as expenses of the Department are paid.
- (j) Members of the Environmental Management Commission shall meet all requirements of the State Ethics law and the conflict of interest provisions of applicable Federal laws and regulations.

# Section 7. Appeals of Administrative Actions.

- (a) Beginning October 1, 1982, the Environmental Management Commission, in addition to any other authority which may be conferred upon it by law, shall have the power to:
- (1) Develop and prescribe its own hearing procedures, unless otherwise specified by law; and
- (2) Administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, and records. In the event of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify as to any matter regarding which he may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or of the judge thereof, upon the application of the Environmental Management Commission or its designee, to compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before courts of record and shall be paid from the funds of the Department.
- (b) (1) The Environmental Management Commission may delegate the power to hear appeals which are before it to a Hearing Officer. Any such hearing conducted by a Hearing Officer shall be in

accordance with rules and regulations prescribed by the Environmental Management Commission pursuant to § 7(a) (1) of this Act, and in such case the Hearing Officer shall prepare findings of fact, conclusions of law and recommendations to the Environmental Management Commission for its final decision.

- (2) The Environmental Management Commission may hire Hearing Officers to hear appeals which are before it. Such Hearing Officers shall be paid appropriately from Department funds.
- (c) Upon a proper request made in accordance with § 7(c) (1) or § 7(c) (2), any person aggrieved by an administrative action of the Department shall be entitled to a hearing before the Environmental Management Commission or its designated Hearing Officer.
- (1) Request for such hearing to contest an administrative action of the Department, other than to contest the issuance of any rule or regulation or emergency order, must be filed with the Environmental Management Commission within 15 days after notice to the aggreived person by the Department of its action, or if no notice to the aggreived person is given or required to be given by this Act, within 30 days of the contested administrative action.
- (2) Request for a hearing before the Environmental Management Commission or its designated Hearing Officer to contest the issuance of any rule or regulation by the Department must be filed with the Environmental Management Commission within 45 days of the promulgation of the rule or regulation by the Department.
- -- (3) The Environmental Management Commission or its designated Hearing Officer shall within a reasonable time, not to exceed 45 days after receipt of a request in accordance with § 7(c) (1) or § 7(c) (2), hold a hearing of which at least 15 days' written notice shall be given to such person requesting the hearing and any other named or necessary party. Within 30 days after such hearing, the Environmental Management Commission shall issue an appropriate order modifying, approving or disapproving the Department's administrative action. A copy of the Environmental Management Commission's order shall be served upon all parties either personally, by registered mail or by certified mail return receipt requested. The notice and hearing requirements of this subsection shall-not apply to emergency orders. Hearings on emergency orders shall be held before the Environmental Management Commission and notice of such hearing as may be reasonable under the circumstances shall be given to such persons as the Environmental Management Commission deems appropriate.
- (4) Pending the determination by the Environmental Management Commission, and upon application therefore, the Environmental

Management Commission may stay the operation of such administrative action upon such terms and conditions as it may deem proper.

- (5) The parties shall not be bound by the strict rules of evidence prevailing in the courts. However, a full and complete record shall be kept of all proceedings before the Environmental Management Commission. All testimony or comments given in any hearing before the Environmental Management Commission shall be electronically or stenographically recorded, but need not be transcribed unless an appeal is taken to court or unless requested by any party who shall pay for the cost of transcription.
- (6) Any order of the Environmental Management Commission made pursuant to the above procedure, modifying, approving or disapproving the Department's administrative action, constitutes a final action of the Department and is appealable to the Montgomery County Circuit Court or the Circuit Court in which the applicant does business or resides for judicial review on the administrative record.

# Section 8. Adopting Rules, Regulations and Standards.

- (a) All rules, regulations or standards shall be adopted by and promulgated by the Environmental Management Commission. With the exception of editorial changes, no rule, regulation or standard shall be adopted, amended or repealed unless such rule, regulation, or standard has been reviewed by the Director and until after a public hearing has been held. Unless different notice provisions are specifically required elsewhere by law, at least 45 days prior to the scheduled date of the hearing the Department shall give notice of such hearing by public advertisement in the three newspapers of this State with the largest regional circulation of the date, time, place and purpose of such hearing; and make available to any person upon request copies of the proposed rules, regulations or standards, together with summaries of the reasons supporting their adoption, amendment or repeal.
- (b) Any public hearing relating to the adoption, amendment or repeal of Department rules, regulations or standards under this sestion shall be held before a Department representative, who shall be designated by the Environmental Management Commission. All such hearings shall be open to the public, and reasonable opportunity to be heard with respect to the subject of the hearing shall be afforded to any person. All testimony taken before the Department representative shall be recorded and transcribed. The transcript, any exhibits or any written submissions to the Department in relation to such hearings shall be open to public inspection.
- (c) After such hearing, the Department may revise the proposed rules, regulations or standards, before adoption in response to testi-

mony, written submissions or exhibits introduced at the hearing, without conducting a further hearing on the revisions.

(d) Nothing in this section shall be construed to require a hearing prior to the issuance of any temporary emergency rule or regulation.

Section 9. Transfer of Functions, Personnel, Equipment, etc. to the Alabama Department of Environmental Management.

- (a) All employees engaged in duties pertaining to the functions transferred by this Act to the Department, shall be assigned to the Department on October 1, 1982, to perform their usual duties, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing personnel and employees.
- (b) All files, books, papers, records, equipment, furniture, motor vehicles, any other tangible property, and any other asset employed in carrying out the powers, duties and functions transferred by this Act to the Department shall, on October 1, 1982, be transferred to the Department.
- (c) All reports, documents, surveys, books, records, files, correspondence, papers or other writings in the possession of any department, division, bureau, board, commission or other agency, the functions, powers and duties of which have been transferred to the Department by this Act, or which have been employed in carrying out the functions, powers and duties transferred by this Act to the Department shall, on October 1, 1982, be transferred to the Department.
- (d) All funds, credits or other monies held in connection with the functions transferred by this Act, shall be transferred to the Alabama Department of Environmental Management Fund created by Section 12 of this Act on October 1, 1982. Subsequent to the transfer of all funds, credits or other monies to the Department for programs whose functions are transferred by this Act to the Department, the Water Improvement Commission Fund established by § 22-22-10 Code of Alabama 1975, as amended; the Safe Drinking Water Fund established by § 22-23-51 Code of Alabama 1975, as amended; the Well Driller Licensing Fund established by § 22-24-10 Code of Alabama 1975, as amended; the Operator's Certification Fund established by § 22-25-10 Code of Alabama 1975, as amended; and the Hazardous Waste Management Fund established by § 22-30-23 Code of Alabama 1975, as amended, are abolished, and any funds from any source whatsoever which may accrue to any of the foregoing funds in the future shall accrue to the Alabama Department of Environmental Management.
- (e) Any appropriation made for the purpose of carrying out the powers, duties and functions transferred by this Act to the Department, shall on October 1, 1982, be transferred and credited to the

Department for the purpose of carrying out such transferred powers, duties and functions.

- (f) Except where in conflict with provisions of this Act, on October 1, 1982, all rules, regulations, standards, comprehensive plans for the prevention, abatement and control of pollution in this State; and all orders, permits, licenses, certificates, bonds and variances of the departments, divisions, boards, commissions, or other agencies, relating to the functions transferred by this Act to the Department, are enforceable as the rules, regulations, standards, plans, orders, permits, licenses, certificates, bonds and variances of the Department and shall continue to be effective until revised, amended, repealed or nullified pursuant to law.
- (g) All pending business before the boards, commissions, or agencies affected by this Act, relating to the functions transferred by this Act to the Department, shall be continued and acted upon by the Department. All existing contracts, obligations and memoranda of understanding pertaining to the functions transferred by this Act to the Department, shall remain in force and effect and shall be performed by the Department.
- (h) All state officials required to maintain contact with or provide services to any agency, board or commission affected by this Act shall continue to perform such services for the Department unless otherwise directed by this Act.
- (i) Neither the abolition of any agency nor any of the transfers authorized by this Act shall affect the validity of any action performed by such agency, board or commission affected by this Act, prior to October 1, 1982.
- (j) Except where required elsewhere by the Act, on October 1, 1982, the performance of any such transferred duties or functions by the Department or its respective Divisions shall have the same effect as if done by the former agency, board or commission referred to or designated by law or contract. The reference to or designation of the former agency, board or commissions shall apply to the Department.
- (k) During an appropriate transition period after October 1, 1982, the State Health Department shall continue to assist the Department in personnel and fiscal matters in order to effect the smooth transition of such functions to the Department.
- Section 10. Transfer of Functions, Personnel, Equipment, etc., of the Coastal Area Board to the Office of State Planning and Federal Programs, except those which relate to Permitting Regulatory and Enforcement.

- (a) On October 1, 1982, all functions of the Coastal Area Board, as set forth in §§ 9-7-10 through 9-7-22 Code of Alabama 1975, as amended, except those which relate to permitting, regulatory and enforcement functions, shall be transferred to the Office of State Planning and Federal Programs established pursuant to §§ 41-9-205 through 41-9-214 Code of Alabama 1975, as amended.
- (b) All employees engaged in duties pertaining to the functions transferred by this Section, shall be assigned to the Office of State Planning and Federal Programs on October 1, 1982 to perform their usual duties, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing personnel and employees.
- (c) All files, books, papers, records, equipment, furniture, motor vehicles, any other tangible property and any other asset employed in carrying out the powers, duties and functions transferred by this Act to the Office of State Planning and Federal Programs shall, on October 1, 1982, be transferred to the Office of State Planning and Federal Programs.
- (d) All reports, documents, surveys, books, records, files, correspondence, papers or other writings in the possession of the Coastal Area Board, the functions, powers and duties of which have been transferred to the Office of State Planning and Federal Programs by this Act, or which have been employed in carrying out the functions, powers and duties transferred by this Act to said Office shall, on October 1, 1982, be transferred to the Office of State Planning and Federal Programs.
- (e) All funds, credits or other monies held in connection with the functions transferred by this Act to the Office of State Planning and Federal Programs, shall be transferred to said Office on October 1, 1982. Subsequent to the transfer of all funds, credits or other monies to the Office of State Planning and Federal Programs, the Contal Area Board Fund established by \$9-7-19 Code of Alabama 1975, as amended, is apousned.
- (f) Any appropriation made to the Coastal Area Board for the purpose of carrying out the powers, duties and functions transferred by this Act to the Office of State Planning and Federal Programs shall, on October 1, 1982, be transferred and credited to said Office for the purpose of carrying out such transferred powers, duties and functions.
- (g) The Office of State Planning and Federal Programs shall provide the Department sufficient funds to administer the permitting, regulatory and enforcement functions of the Coastal Area Management Program from those federal funds obtained by the office for such purposes.

- (h) All pending business before the Coastal Area Board, relating to the functions transferred by this Act to the Office of State Planning and Federal Programs, shall be continued and acted upon by said Office. All existing contracts, obligations and memoranda of understanding pertaining to the functions herein transferred shall remain in force and effect and shall be performed by the Office of State Planning and Federal Programs.
- (i) All state officials required to maintain contact with or provide services to the Coastal Area Board shall continue to perform such services for the Office of State Planning and Federal Programs or as otherwise directed by this Act.
- (j) Neither the abolition of the Coastal Area Board nor any of the transfers to the Office of State Planning and Federal Programs authorized by this Act shall affect the validity of any action performed by the Coastal Area Board, prior to October 1, 1982.

# Section 11. Amendments to Existing Authority.

(a) §§ 9-7-10, 9-7-13, 9-7-16, 9-7-17, 9-7-20, and 9-7-22 of the Code of Alabama 1975, as amended, are hereby amended on October 1. 1982 to read as follows:

### "§ 9-7-10. Definitions.

The following terms, whenever used in this chapter shall have the following respective meanings unless the context clearly indicates otherwise:

- (1) COASTAL AREA. The coastal waters, including the lands therein and thereunder, and the adjacent shorelands, including the waters therein and thereunder, strongly influenced by each and in proximity to the shorelines of Alabama and including transitional and intertidal areas, salt marshes, wetlands, and beaches. The area extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters.
- (2) COASTAL WATERS. Those waters, adjacent to the shoreline, which contain a measurable quantity or percentage of sea water, including but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.
- (3) ESTUARY. That part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage.

- (4) ESTUARINE SANCTUARY. A research area which may include any part or all of an estuary, adjoining transitional areas and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.
- (5) MANAGEMENT PROGRAM. Such term includes, but is not limited to, a comprehensive statement in words, maps, illustrations or other media of communication, prepared and adopted by the state in accordance with the provisions of this chapter, setting forth objectives, policies and standards to guide public and private users of lands and waters in the coastal area.
- (6) WATER USE. Activities which are conducted in or on the water, but such term does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria or regulations which are incorporated in any program as required by the provisions of this chapter.
- (7) BOARD. The Office of State Planning and Federal Programs established pursuant to \$\$41-9-205 through 41-9-214 Code of Alabama 1975, as amended.
- (8) DEPARTMENT. The Alabama Department of Environmental Management.
- (9) PERSON. Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, other legal entity or business organization or any state or local government entity and any successor of the foregoing."
- "§ 9-7-13. Activities deemed permissible uses within coastal area; determination of additional permissible uses.
- (a) The legislature of Alabama finds that the following activities shall constitute permissible uses within the coastal area:
- (1) The accomplishment of emergency decrees of any duly appointed health officer of a county or municipality or of the state acting to protect the public health and safety;
- (2) The conservation, repletion and research activities of the Marine Environmental Sciences Consortium, the marine resources division of the department of conservation and natural resources and the Mississippi-Alabama Sea Grant Consortium;
- (3) The exercise of riparian rights by the owner of the riparian rights; provided, that the construction and maintenance of piers,

boathouses and similar structures shall be on pilings that permit a reasonably unobstructed ebb and flow of the tide;

- (4) The normal maintenance and repair of bulkheads, piers, roads and highways existing on the date of final approval of the rules and regulations pursuant to this chapter;
- (5) The use of any structure on land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling:
- (6) Normal maintenance and repair activities of railroads and of utilities or other persons engaged in transportation or in telephone communication service or in the distribution or transmission of gas, electricity or water or the collection of sewage, including inspecting, maintaining, repairing or renewing on private or public rights-of-way any sewers, mains, conduits, pipes, cables, utility tunnels, power lines, towers, poles, tracks, bridges, trestles and drainage facilities or the like or making service connections thereto or inspecting, maintaining, repairing or renewing any substation, pumping or lifting facility;
- (7) Activities of any mosquito control commission which is a political subdivision or agency of the state of Alabama;
- (8) The use of any land for the purpose of planting, growing or harvesting plants, crops, trees or other agricultural or forestry products, including normal private road construction, raising livestock or poultry or for other agricultural purposes; and
- (9) Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to final approval of the rules and regulations pursuant to this chapter and which development was initiated prior to such approval.
- (b) Upon recommendation from the board, the Department shall determine, by rule and regulation, from time to time, additional permissible uses within the coastal area."
  - "§ 9-7-16. Same Promulgation of rules and regulations.

The Department shall develop and promulgate, after notice and opportunity for full participation by relevant federal agencies, state agencies, local governments, regional organizations, port authorities and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the management program provided for in this chapter."

- "§ 9-7-17. Approval by governor of management program and of board.
- (a) The management program provided for in section 9-7-15 shall not become effective until approved by the governor.

- "§ 9-7-20. Requirements as to permits generally; regulation of uses of lands within coastal area by local government units; filing with board copies of applications for federal permits.
- (a) It is the intent and purpose of this section to avoid duplication whenever possible as to managing activities within the coastal area and yet assure compliance with the management program established by the board.
- (b) The Department shall review the permitting activities of persons within the coastal area in order to insure consistency with the coastal area management program and where necessary to issue permits to persons to insure compliance and consistency with said program. No agency can issue a permit for any activity in the coastal area that the Department of Environmental Management finds to be inconsistent with the Coastal Area Management Program.
- (c) There may well be uses of certain lands included within the boundaries of the coastal area which will not have a "direct and significant" impact on coastal waters. Such uses may be subject to regulation by local units of government (cities or counties) within the framework of the management program adopted by the board.
- (d) Any person, corporation or partnership filing an application for the federal permit for an activity to be conducted within the boudaries of the coastal area shall deliver to the Department an informational copy of such application."
- "§ 9-7-22. Proceedings for enforcement of provisions of chapter; penalties and remedies for violation of provisions of chapter.
- (a) The Department, the Attorney General, a district attorney having jurisdiction or an assistant district attorney having jurisdiction may initiate an action against any person or persons, partnership, corporation, state or local government entity if in the judgement of the board Department such party is determined to be in violation of the management program of the board.
- (b) Jurisdiction and venue for judicial actions brought pursuant to this chapter shall lie in any county or counties in which the alleged violation occurs or in which property affected by such violation is located.
- (c) Threatened or actual violations of this chapter may be restrained by order of the circuit court of the county in which any affected area of the coastal area or any part thereof lies. Such actions shall be initiated as provided for in subsection (a) of this section.
- (d) Nothing in this chapter shall preclude other statutory or commonlaw remedies by public or private parties against violators or non-violators of this chapter."

- (b) \$ 22-22-1 of the Code of Alabama 1975, as amended, is hereby amended effective October 1, 1982 to read as follows:
  - "§ 22-22-1. Short title: definitions.
- (a) This chapter may be cited as the "Alabama Water Pollution Control Act."
- (b) For the purposes of this chapter, unless otherwise indicated, the following terms shall have the meanings respectively ascribed to them by this section:
- (1) COMMISSION. The Alabama Department of Environmental Management.
- (2) WATERS. All waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the state, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership or corporation unless such waters are used in interstate commerce.
- (3) POLLUTION. The discharge of a pollutant or combination of pollutants. A pollutant includes but is not limited to dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water. Pollutant does not mean (a) sewage from vessels; or (b) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposal of in a well, of the well used either to facilitate production or for disposal purposes is approved by authority of the state, and if the Commission determines that such injection or disposal will not result in the degradation of ground or surface water resources.
- (4) SEWAGE. Water-carried human wastes from residences, buildings, industrial establishments or other places, together with such ground, surface, storm or other waters as may be present.
- (5) INDUSTRIAL WASTES. Liquid or other wastes resulting from any process of industry, manufacture, trade or business or from the development of natural resources.
- (6) OTHER WASTES. All other substances, whether liquid, gaseous, or solid, or energy in the form of heat from all other sources including, but not limited to, any vessels or other conveyances traveling or using the waters of this state, except industrial wastes or sewage.

- (7) PERSON. Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, other legal entity, business organization or any governmental entity and any successor, representative, responsible corporate officer, agent or agency of the foregoing.
- (8) DISCHARGE. The addition, introduction, leaking, spilling or emitting of any sewage, industrial waste, pollutant or other wastes into waters of the state.
- (9) DIRECTOR. The Director of the Alabama Department of Environmental Management.
- (10) CHAIRMAN. The Director of the Alabama Department of Environmental Management.
- (11) VICE CHAIRMAN. The Director of the Alabama Department of Environmental Management.
- (12) WATER IMPROVEMENT COMMISSION. The Alabama Department of Environmental Management.
- (13) ALABAMA WATER IMPROVEMENT COMMISSION. The Alabama Department of Environmental Management."
- (c) § 22-23-31 of the Code of Alabama 1975, as amended, is hereby amended effective October 1, 1982 to read as follows:
  - "§ 22-23-31. Definitions.

When used in this article and except where the context prohibits, the following words and terms shall have the following meanings:

- (1) FEDERAL ACT. The Federal Safe Drinking Water Act, being Public Law 93-523.
- (2) ADMINISTRATOR. The administrator of the United States environmental protection agency.
- (3) NATIONAL PRIMARY DRINKING WATER REGULATIONS. Primary drinking water regulations promulgated by the administrator pursuant to the federal act.
- (4) FEDERAL AGENCY. Any department, agency or instrumentality of the government of the United States, the regulation of which has been delegated to the state of Alabama pursuant to the federal act.
- (5) BOARD. The Alabama Department of Environmental Management.

- (6) HEALTH OFFICER. The Director of the Alabama Department of Environmental Management.
- (7) LOCAL GOVERNMENT UNIT. Any community, town, city, county, board, authority, nonprofit corporation or other unit of government created by the legislature.
- (8) PERSON. Any individual, firm, partnership, corporation, local government unit, party, company, association, federal agency, state agency or any other public or private legal entity.
- (9) SUPPLIER OF WATER. Any person who owns or operates a public water system.
- (10) CONTAMINANT. Any physical, chemical, biological or radiological substance or matter in water.
- (11) PUBLIC WATER SYSTEM. A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals at least 60 days out of the year. A public water system includes:
- a. Any collection, treatment, storage and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and
- b. Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

A public water system is either a community water system or a noncommunity water system.

- (12) COMMUNITY WATER SYSTEM. A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
- (13) NONCOMMUNITY WATER SYSTEM. A public water system which does not meet the requirements of a community water system.
- (14) MAJOR MODIFICATION. Any modification of a public water supply which is declared to be "major" by the regulations of the board.
- (15) STATE PRIMARY DRINKING WATER REGULATION. A regulation which:
  - a. Applies to a public water system;
- b. Specifies contaminants which, in the judgment of the Board, may have an adverse affect on the public health;

- c. Specifies for each such contaminant either:
- I. A maximum contaminant level; or
- 2. Each treatment technique known to the board which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 22-23-33 if, in the judgment of the board, it is not economically or technologically feasible to ascertain the level of such contaminant; and
- d. Contains criteria and procedures to assure a supply of drinking water which dependably does not exceed such maximum contaminant levels, including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to;
- 1. The minimum quality of water which may be taken into the system; and
  - 2. Siting for new facilities for public water systems.
- (16) STATE SECONDARY DRINKING WATER REGULATION. A regulation which:
  - a. Applies to a public water system;
- b. Specifies maximum contaminant levels necessry to protect the public comfort or well-being controlling contaminants which:
- 1. Adversely affect odor or appearance of water, thereby causing substantial number of persons to discontinue its use; or
- Otherwise adversely affect the public comfort or well-being;
  - c. May vary according to geographic and other circumstances."
- (d) §§ 22-24-1 and 22-24-11 of the Code of Alabama 1975, as amended, are hereby amended effective October 1, 1982 to read as follows:
  - "§ 22-24-1. Definitions.

For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

- (1) BOARD. The Alabama Department of Environmental Management.
- (2) DIRECTOR. The Director of the Alabama Department of Environmental Management.
- (3) DRILL. To drill or redrill, bore, auger, dig or otherwise construct a water well.

- (4) DRILLER. Any person who manages or supervises the drilling of a water well.
- (5) LOG. A record of the type of material or rock penetrated in the drilling of a water well.
- (6) PERSON. Any individual, organization, group, association, partnership, corporation or any combination of them operating a business to drill water wells.
- (7) SAMPLE. Cuttings or other fragments of rock or soil materials removed from the well.
  - (8) WELL. A hole drilled for the production of water."
- "§ 22-24-11. Penalty for violation of chapter, etc.; disposition of fines.

Any person guilty of violating any of the provisions of this chapter or the rules and regulations adopted thereunder shall be guilty of a misdemeanor and may be punished by a fine of not less than \$100.00 nor more than \$500.00 for each violation. Each day the violation continues shall be considered a separate violation. Any and all funds derived from such fines shall be deposited with the state treasurer in the Alabama Department of Environmental Management Fund."

(e) §§ 22-25-1. 22-25-7, 22-25-8, 22-25-9, 22-25-10, and 22-25-13 of the Code of Alabama 1975, as amended, are hereby amended effective October I, 1982 to read as follows:

# §§ 22-25-1. Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

- (1) STATE HEALTH OFFICER. The Director of the Alabama Department of Environmental Management.
- (2) BOARD. The Alabama Department of Environmental Management.
- (3) CERTIFICATE. The certificate of competency issued by the state health officer stating that the operator has met the requirements for the specified operator classification of the certification program.
- (4) WATER SUPPLY SYSTEM. The system of pipes, structures and facilities through which a public water supply is obtained, treated and sold or distributed for human consumption or household use, as defined by subsection (12) of Section 22-23-31 Code of Alabama 1975, as amended.

- (5) WATER TREATMENT PLANT. That portion of the water supply system which in some way alters the physical, chemical or bacteriological quality of the water.
- (6) WASTEWATER TREATMENT PLANT. The facility or group of units used for the treatment of wastewater from sewer systems and for the reduction or handling of solids removed from such wastewater.
- (7) WATER DISTRIBUTION SYSTEMS. That portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer.
- (8) OPERATOR. The person on duty who has direct responsibility for the operation of a water treatment plant, water distribution system or wastewater treatment plant.
- (9) TRAINEE. The person on duty who has direct responsibility for the operation of a water treatment plant, water distribution system or wastewater treatment plant and is serving in a training capacity for a maximum of one year without a certificate."
- "§ 22-25-7. Certification of operators Duty of state health officer.

The state health officer shall certify persons as to their qualifications to supervise the operation of such treatment plants and water distribution systems after considering the recommendations of the board."

"\$ 22-25-8. Same - Examinations.

The board shall hold at least one examination each year for the purpose of examining candidates for certification, at a time and place designated by the board."

"§ 22-25-9. Same - Issuance.

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- (a) When the state health officer is satisfied that an applicant is qualified, by examination or otherwise, the state health officer shall issue a certificate attesting to the competency of the applicant as an operator. The certificate shall indicate the classification of works which the operator is qualified to supervise.
- (b) Certificates of proper classifications shall be issued without examination to persons certified by a governing body or owner to have been the operator of a treatment plant or a water distribution system on September 28, 1971. A certificate so issued will be valid only for that particular treatment plant or system, but shall remain in effect five years unless revoked by the state health officer as provided in this chapter. All certificates will be renewed every five years.

(c) Certificates in appropriate classification shall be issued to operators who, on September 28, 1971, hold certificates of competency attained by examination under the voluntary certification program sponsored jointly by the state department of health and the Alabama water and pollution control association."

" \$ 22-25-10. Same - Fees; operators certification fund.

The state health officer, with the approval of the board, is authorized to charge a fee for certificates issued under this chapter, but such fees shall not exceed \$10.00 for an initial certificate nor more than \$5.00 for the five-year renewal certificate. All such fees collected shall be remitted to the treasurer of the state, who shall hold such moneys in a special fund to be known as the Alabama Department of Environmental Management Fund to be used by the state department of health board to administer and enforce the provisions of this chapter."

"\$ 22-25-13. Rules.

The board may promulgate such rules and regulations as are necessary to carry out the provisions of this chapter."

(f) §§ 22-27-2, 22-27-3, 22-27-4, 22-27-5 and 22-27-7 of the Code of Alabama 1975, as amended, are hereby amended effective October 1, 1982 to read as follows:

"§ 22-27-2. Definitions.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them by this section:

- (1) SOLID WASTES. All putrescible and nonputrescible discarded materials, except household sewage and livestock and poultry wastes, including, but not limited to, garbage, rubbish, ashes, street and highway cleanings, dead animals, including offal, abandoned automobiles and such industrial wastes as are not controlled by other agencies.
- (2) GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, including wastes from markets, storage facilities, handling and sale of produce and other food products and excepting such materials that my be serviced by garbage grinders and handled as household sewage.
- (3) ASHES. The solid residue from burning of wood, coal, coke or other combustible material used for heating or from incineration of solid wastes, but excepting solid residue, the storage or disposition of which is controlled by other agencies.

- (4) RUBBISH. Nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves and similar materials. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like materials which will not burn at ordinary incinerator temperatures, not less than 1600 degrees Fahrenheit.
- (5) OPEN DUMP. Any officially recognized place, land or building which serves as a final depository for solid wastes, whether or not burned or buried, which does not meet the minimum requirements for a sanitary landfill, except approved incinerators, compost plants and salvage yards.
- (6) UNAUTHORIZED DUMP. Any collection of solid wastes either dumped or caused to be dumped or placed on any property either public or private, whether or not regularly used, and not under the control and supervision of any person or agency. An abandoned automobile, large appliance or similar large items of solid waste shall be considered as forming an unauthorized dump within the meaning of this article, but not the careless littering of smaller individual items as tires, bottles, cans and the like. An unauthorized dump shall also mean any solid waste disposal site which does not meet the regulatory provisions of this article.
- (7) SANITARY LANDFILL. A controlled area of land upon which solid waste is deposited and is compacted and covered with compacted earth each day as deposited, with no on-site burning of wastes, and so located, contoured and drained that it will not constitute a source of water pollution as determined by the Alabama Department of Environmental Management.
- (8) LANDFILL. A method of compaction and earth cover of solid wastes other than those containing garbage or other putrescible wastes, including, but not limited to, tree limbs and stumps, demolition materials, incinerator residues and like materials not constituting a health or nuisance hazard, where cover need not be applied on a per day used basis.
- (9) HAZARDOUS WASTES. Those wastes defined in the Hazardous Waste Management Act of 1978, as amended (Section 22-30-21 et seq. Code of Alabama 1975, as amended).
- (10) INCINERATOR. A device designed to burn that portion of garbage and rubbish which will be consumed at temperatures generally ranging 1600 degrees Fahrenheit or over. The unburned residue from an incinerator, including metal, glass and the like shall be called ashes.

- (11) COMPOSTING OR COMPOST PLANT. An officially controlled method or operation whereby putrescible solid wastes are broken down through microbic action to a material offering no hazard or nusiance factors to public health or well-being.
- (12) HEALTH DEPARTMENT. An approved county or district health department, including the Alabama state department of public health and the affected state and county boards of health.
- (13) HEALTH OFFICER. The state or affected county health officer or his designee.
- (14) AGENCY. Any controlling agency, public or private, elected, appointed or volunteer utilizing methods approved by the health department for the purpose of controlling and supervising the collection and/or disposal of solid wastes.
- (15) DEPARTMENT. The Alabama Department of Environmental Management.
- (16) DIRECTOR. The Director of the Alabama Department of Environmental Management."
- "§ 22-27-3. Authority of local governing bodies as to methods of waste collections and disposal; exception.
- (a) Generally. The county commission or municipal governing body may, and is hereby authorized to, make available to the general public collection and disposal facilities for solid wastes in a manner acceptable to the Department. The county commission or municipal governing body may provide such collection or disposal services by contract with private or other controlling agencies and may include house-to-house service or the placement of regularly serviced and controlled bulk refuse receptacles within reasonable (generally less than eight miles) distance from the farthest affected household and the wastes managed in a manner acceptable to the Department.
- (b) Garbage disposal. Garbage and rubbish containing garbage shall be disposed of by sanitary landfill, approved incineration, composting or by other means now available or which may later become available as approved the Department. The method chosen and used shall also meet the requirements of the Health Department for sanitation and the protection of public health.
- (c) Burning. No garbage or rubbish containing garbage or other putrescible materials or hazardous wastes shall be burned except in approved incinerators meeting the necessary temperature requirements and air pollution controls as now established or may later be established. The open burning of rubbish shall be permitted only under sharply controlled circumstances where sanitary landfill or

landfill is not feasible and not in proximity to sanitary landfill or landfill operations where spread of fire to these operations may be a hazard in the opinion of the Department.

- (d) Haulage. Trucks or other vehicles engaged in the business of hauling garbage and rubbish shall be so covered, secured or sealed that there will be no loss during haulage to cause littering of streets and highways, or cause a nuisance or hazard to the public health.
- (e) Exception. A household, business, industry or any property owner may store, haul and dispose of his own solid wastes on his land or otherwise, provided such storage, haulage or disposal is accomplished pursuant to a certificate of exception as provided in this subsection. In order to obtain a certificate of exception, an application and plan must be filed with the county health officer or his designee in the case of household solid waste or with the Department in the case of solid waste from business or industry, setting out the proposed method of storing, hauling and disposing of solid waste so as to comply with rules and regulations adopted by the state or county boards of health or the Department as appropriate and not create a public nuisance or hazard to the public health. The county health officer or his designee or the Department as appropriate shall investigate such application and plan and issue a certificate of exception if such proposal will, in such officer's or designee's judgment, comply with such rules and regulations and adequately prevent a public nuisance or hazard to public health.'

- "\$ 22-27-4. Hazardous wastes; unauthorized dumps; vermin controls.
- (a) Hazardous wastes. Hazardous wastes shall be handled in accordance with the provisions of §§ 22-30-1 through 22-30-24 Code of Alabama 1975, as amended, and the regulations promulgated there-
- (b) Unauthorized dumps. The formation of unauthorized dumps is hereby declared to be a public nuisance per se, a menace to public health, and a violation of the Solid Wastes Disposal Act and in addition to other remedies which are available may be enjoined through an action by the Department in the Circuit Court of the State having jurisdiction over the property on which the violation occurred.
- (c) Vermin controls. Rodents and insects of public health importance, as rats, flies, mosquitoes and the like, shall be controlled in a manner satisfactory to the health department, and the closing out or conversion to sanitary landfill operations of existing open dumps shall, where deemed necessary by the health officer, be accompanied by an adequate rat eradication program to prevent the spread of rodents to nearby properties."

- "§ 22-27-5. Authority of localities to establish charges, fees, etc., and enter into mutual agreements or contracts; licensing of private or corporate agencies; nonpayment of fees, etc.
- (a) Fees, etc.; mutual agreements or contracts. The county commission or municipality undertaking the responsibility for providing services to the public under this article may establish fees, charges and rates and may collect and disburse funds within cooperating areas or districts, inside or outside the corporate limits of municipalities or inside or outside of county boundaries, for the specific purpose of administering this article and providing and operating a solid waste program. Also, said county commission or public authority may enter into mutual agreements or contracts with the government bodies of other counties, municipalities, corporations or individuals, where deemed to be mutually economical and feasible, to jointly or individually collect, haul and/or dispose of solid wastes generated within the cooperating area. All contracts or mutual agreements under this article shall be subject to review by the health officer, and all such contracts and agreements shall be subject to cancellation upon 30 days' notice from said health officer with the concurrence of the Department, any time said contracts or agreements fail to be in the best interest of the health, safety and welfare of the citizens residing in the affected area.
- (b) Private or corporate agencies. Individuals, corporations, partnerships or other agencies engaging in the collection and disposal of solid wastes are subject to this article. Governing bodies may assign territories, approve or disapprove disposal sites, with the concurrence of the health department, and shall establish and collect annual license fees from such firms and set rate schedules if a service fee is charged. In addition to any other approvals which are necessary for any contract between private or corporate agencies and governmental entities for the disposal of solid wastes, approval of the Department shall be obtained.
- (c) Permits and bonds. Under subsection (b) of this section, no license shall be granted or fee collected without a permit issued by the state or county health department, renewable annually at the time licenses are due. Such permit shall be based upon performance and may be revoked for cause, including failure to perform under the provisions of this article and regulations adopted under authority of this article. No license shall be granted without the posting of a performance bond satisfactory to the governing body. All solid wastes disposal sites except those which have certificates of exception shall have a permit from the Department.
- (d) Nonpayment of fees, etc. Any county commission or municipality establishing fees, charges and rates pursuant to subsection

(a) of this section shall have the power and authority to adopt resolutions or ordinances providing that if the fees, charges or rates for the services furnished by the county commission or municipality, or licensee of either, under the provisions of said chapter, shall not be paid within 30 days after the same shall become due and payable, such county commission or municipality may, at the expiration of such 30-day period, suspend such services or may proceed to recover the amount of any such delinquency with interest in a civil action, or both."

"\$ 22-27-7. Supervision; rules and regulations; penalty for violation of article.

With regard to the collection of solid wastes, the health department shall exercise such supervision over equipment, methodology and personnel in the management of solid wastes as may be necessary to enforce sanitary requirements, and the state and county boards of health may adopt such rules and regulations as may be needed to specify methodology and procedures to meet the requirements of this article. With regard to the disposal of solid wastes, the Department shall exercise such regulatory control over the management of solid wastes as may be necessary to enforce the requirements of the Department, and the Department may adopt such rules and regulations as may be needed to meet the requirements of this article. Any person violating any provision of this article or any rule or regulation made pursuant to this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$5.00 nor more than \$100.00, and if the violation or failure or refusal to obey or comply with such provision of the article or such rule or regulation is a continuing one, each day's violation shall constitute a separate offense and shall be punished accordingly. Any person, firm or corporation granted an exception under subsection (e) of section 22-27-3 who or which fails to carry out and comply with the provisions of the proposals embodied in the application and plan upon which a certificate of exception was issued to him or it shall be guilty of a misdemeanor and shall be punished as provided in this section. Any person, firm or corporation which has not been issued a certificate of exception under subsection (e) of section 22-27-3 and which utilizes the solid waste disposal system of any county or municipality and which fails to pay the fee. rate or charge established by the county commission or municipal governing body therefore shall be guilty of a misdemeanor and shall be punished as provided in this section."

(g) §§ 22-28-2 and 22-28-21 of the Code of Alabama 1975, as amended, are hereby amended effective October 1, 1982 to read as follows:

"§ 22-28-2. Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

- (1) AIR POLLUTION. The presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property or would interfere with the enjoyment of life or property throughout the state and in such territories of the state as shall be affected thereby.
- (2) AIR CONTAMINANT. Any solid, liquid or gaseous matter, any odor or any combination thereof, from whatever source.
- (3) COMMISSION. The Alabama Department of Environmental Management.
- (4) PERSON. Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.
- (5) EMISSION. A release into the outdoor atmosphere of air contaminants.
- (6) DIRECTOR. The Director of the Alabama Department of Environmental Management.
- (7) STATE HEALTH OFFICER. The Director of the Alabama Department of Environmental Management.
- (8) CHAIRMAN. The Director of the Alabama Department of Environmental Management.
- (9) STATE AIR POLLUTION CONTROL COMMISSION. The Alabama Department of Environmental Management.
- (10) ENVIRONMENTAL MANAGEMENT COMMISSION. The Environmental Management Commission of the Alabama Department of Environmental Management."
  - "§ 22-28-21. Air pollution emergencies.
- (a) Any other provisions of law to the contrary notwithstanding, if the director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the director shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants, and such order shall fix a place and time, not later than 24 hours thereafter, for a hearing to be held before the Environmental Management Commission. Not

more than 24 hours after the commencement of such hearing, and without adjournment thereof, the Environmental Management Commission shall affirm, modify or set aside the order of the director.

- (b) In the absence of a generalized condition of air pollution of the type referred to in subsection (a) of this section, but if the director finds that emissions from the operation of one or more air contaminants sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard to the provisions of section 22-28-19. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsection (a) of this section shall apply.
- (c) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision or inheres in the office.

- (d) In addition to, and without in any way limiting the foregoing, if the state health officer determines, at any time, that air pollution in any county, locality, place or other area in the state constitutes an emergency risk to health of those present within said area of the state and that the resources of the commission are not sufficient to abate said air pollution such determination shall be communicated in writing, with the factual findings on which such determination is based, to the governor; the state health officer may delegate in writing to any employee of the commission the power to make such determination and deliver the same to the governor in the absence of the state health officer from the state. Upon being so advised, the governor shall, by proclamation, declare, as to all or any part of said area mentioned in the aforesaid determination, that an air pollution emergency exists, and, upon making such declaration, the governor shall have the following powers which he may exercise, in whole or in part, by the issuance of an order or orders:
- (1) To prohibit, restrict or condition motor vehicle travel of every kind, including trucks and buses, in the area;
- (2) To prohibit, restrict or condition the operation of retail, commercial, manufacturing, industrial or similar activity in the area;
- (3) To prohibit, restrict or condition operation of incinerators in the area;
- (4) To prohibit, restrict or condition the burning or other consumption of any type of fuel in the area:
- (5) To prohibit, restrict or condition the burning of any materials whatsoever in the area; and

- (6) To prohibit, restrict or condition any, and all, other activity in the area which contributes or may contribute to the air pollution emergency.
- (e) The declaration by proclamation of the governor of an air pollution emergency, and any order issued by the governor pursuant such declaration, shall be given maximum publicity throughout the state.
- (f) Any gubernatorial order may be amended or modified by further gubernatorial orders. Said order or orders shall not require any judicial or other order or confirmation of any type in order to become immediately effective as the legal obligation of all persons, firms, corporations and other entities within the state. Said order shall remain in effect for the duration of the time set forth in same, and if no time limit is specified in said order, same shall remain in effect until the governor declares by further proclamation that the emergency has terminated.
- (g) The aforesaid orders of the governor shall be enforced by the state and county departments of health, the state and local police, commission personnel, the Alabama national guard, if same is authorized in the governor's order, and such other persons or agencies as may be designated by the governor. Those enforcing any governor's order shall require no futher authority or warrant in executing same than the issuance of the order itself. Those authorized to enforce said orders may use such reasonable force as is required in the enforcement thereof and may take such reasonable steps as are required to assure compliance therewith, including, but without limiting the generality of the foregoing, the following:
- (1) Entering any property or establishment whatsoever, commercial, industrial or residential, believed, on reasonable cause, to be violating said order, excepting single or double family homes or any dwelling unit within a multiple-dwelling unit larger than a double family home, and, if a request does not produce compliance, causing compliance with said order;
- (2) Stopping, detouring, rerouting and prohibiting motor vehicle travel and traffic;
- (3) Disconnecting incinerator or other types of combustion facilities;
  - (4) Terminating all burning activities;
- (5) Closing down or restricting the use of any business, commercial, retail, manufacturing, industrial or other establishment.

Where any person authorized to enforce such an order believes, on reasonable cause, that same is being violated in a single or double family residence or within the dwelling portion of a larger multiple-dwelling unit, said residence, or dwelling portion thereof, may be entered only upon obtaining a search warrant from any magistrate having power to issue same.

- (h) Any person, firm or corporation or other entity aggrieved by any gubernatorial order, upon application to the state health officer, shall be granted a public hearing on the question of whether or not the continuance of any such order, in whole or in part, is unreasonable in the light of the then prevailing conditions of air pollution, the contribution to the same of any particular activity and the purposes of this chapter. Said public hearing shall be conducted as quickly as possible by said state health officer or his delegate who shall give public notice of same. The state health officer or his delegate shall have the power to compel attendance, testimony and the production of documents by the use of subpoena powers. The number of witnesses and the extent of testimony shall be within his control. If the state health officer, upon conclusion of such hearing, determines that any such order should be terminated or modified in any way whatsoever, he shall report such findings and recommendations to the governor for such action as he deems appropriate.
- (h) § 22-30-3 of the Code of Alabama 1975, as amended, is hereby amended effective October 1, 1982 to read as follows:
  - "§ 22-30-3. Definitions.

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When used in this chapter and except where the context prohibits, the following words and terms shall have the following meanings:

- (1) BOARD. The Alabama Department of Environmental Management.
- (2) DISPOSAL. The ultimate introduction of hazardous wastes into the environment.
- (3) DISPOSAL SITE. The location where any ultimate disposal of hazardous waste occurs.
- (4) GENERATOR. Any person who utilizes any process which results in the production of hazardous waste.
- (5) HAZARDOUS WASTE. A waste, or combination of wastes, which, because of its quantity, concentration or physical, chemical or infectious characteristics may:
- a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed.

Radioactive waste and by-products, as defined by chapter 14 of this title, are expressly excluded from this definition.

- (6) HAZARDOUS WASTE MANAGEMENT. The systematic and comprehensive management of the generation, storage, transportation, treatment, recycling, recovery or disposal of hazardous waste materials.
- (7) HAZARDOUS WASTE TECHNICAL ADVISORY COM-MITTEE. The committee as provided in section 22-30-8.
- (8) MANIFEST. The form adopted by the board used for identifying the quantity, composition, origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.
- (9) PERPETUITY. For the purposes of this chapter, such term shall mean a period of 200 years following closure of the facility.
- (10) PERSON. Any and all persons, natural or artificial, including, but not limited to any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal entity or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.
- (11) WASTE. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities, including any material to be discarded by a generator, but such term does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).
- (12) TRADE SECRET. Such term includes, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound or procedure, as well as production data or compilation of information, financial and marketing data, which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article of trade or a service having commercial value, and which gives its user an oppor-

tunity to obtain a business advantage over competitors who do not know of it.

- (13) TRANSPORTATION. The movement of wastes from the point of generation to any intermediate transfer points, and finally to the site of final disposal.
- (14) TREATMENT. The physical or chemical treatment, recovery, detoxification, neutralization, incineration, biodegradation, separation, fixation or otherwise modification of a potentially hazardous waste to remove or reduce its harmful properties or characteristics.
- (15) TREATMENT FACILITY. A location at which wastes are subjected to treatment, and may include a facility where waste has been generated.
- (16) STORAGE. The actual or intended containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.
- (17) STATE BOARD OF HEALTH. The Alabama Department of Environmental Management.
- (18) STATE HEALTH OFFICER. The Director of the Alabama Department of Environmental Management"

Section 12. Alabama Department of Environmental Management Fund. There is hereby created a fund known as the Alabama Department of Environmental Management Fund. This fund shall consist of: (1) all appropriations; (2) all grants, gifts, bequests or donations; (3) all money derived through any source of federal aid; (4) all fees, penalties or fines; (5) all monies from any program whose functions were transferred to the Department by this Act; and (6) all monies from any other source whatsoever. However, the Department may not solicit or accept any gift or donation from any person that has any official request or action pending before the Alabama Department of Environmental Management. The fund shall be used and expended by the Department in accordance with the terms of the appropriations, gift, bequest, grant, donation or transfer from which said monies are derived and in the absence of any such terms or stipulations, shall be expended by the Department in furtherence of any of the provisions of this Act. All necessary expenses of the Department shall likewise be paid out of the fund on the requisition of the Director as may be deemed advisable.

#### Section 13. Coastal Resources Advisory Committee.

(a) There is hereby created a Coastar resources Advisory Committee to advise the Department and the Office of State Planning and Federal Programs on all matters concerning the coastal area.

The Committee shall consist of not less than seven members who shall be predominantly from Baldwin and Mobile counties.

- (b) The initial members of the Coastal Resources Advisory Committee shall be the current Coastal Area Board established by \$9-7-14 Code of Alabama 1975, as amended and abolished by this Act. The terms of the initial members of the Committee shall be for one year beginning October 1, 1982.
- (c) The subsequent membership of the Coastal Resources Advisory Committee shall be as follows:
- (1) One member shall be a member of the Mobile City Commission and shall be selected by that Commission;
- (2) One member shall be a member of the Mobile County Commission and shall be selected by that Commission;
- (3) One member shall be a member of the Baldwin County Commission and shall be selected by that Commission;
- (4) One member shall be an official of a municipal corporation in Baldwin County and shall be selected by the Baldwin County Mayors Association;
- (5) One member shall be the Commissioner of Conservation and Natural Resources, who may designate an employee of his department to represent him on the Committee;
- (6) One member shall be the State Geologist who may designate an employee of his agency to represent him on the Committee; and
- (7) One member shall be the Director of the Marine Environmental Science Consortium.

The term of each of these members of the Coastal Resources Advisory Committee shall be consistent with his elective or appointive office.

- (d) Additional members of the Coastal Resources Advisory Committee may be appointed by the Governor for terms not to exceed 4 years and shall be eligible for reappointment.
- (e) The Committee shall meet initially to select a Chairman and subsequent meetings of the Committee shall be at the call of the Chairman of the Coastal Resources Advisory Committee or the Director of the Office of State Planning and Federal Programs.

### Section 14. Repealer and Exemption.

(a) The following portions of the Code of Alabama 1975, as amended, are repealed effective October 1, 1982.

- (1) § 22-28-4 which creates the Division of Air Pollution Control in the State Department of Public Health; § 22-28-5 which creates the Air Pollution Control Commission; § 22-28-6 which provides for compensation of commission members; § 22-28-7 which provides for a chairman and vice-chairman; and § 22-28-8 which provides for quarterly meetings of the commission; § 22-28-15(b) which provides for procedures for rule and adoption; and § 22-28-22(e) through § 22-28-22(h) relating to appeal procedures and citations;
- (2) § 22-22-3 which creates the Water Improvement Commission; § 22-22-4 which relates to the Director; hearing officers; other officers, employees and consultants; delegation of powers and duties; § 22-22-5 which refers to the State Attorney General; § 22-22-6 which provides for a disbursing agent and technical secretary; § 22-22-8 which provides for meetings of the Commission; § 22-22-9(d) relating to annual reports to the Governor and the Legislature; § 22-22-9(j) (3), § 22-22-9(j) (4) and § 22-22-9(j) (5) which relate to permits; § 22-22-9 (m) relating to appeals by aggrieved parties; § 22-22-10 relating to funds, facilities and personnel, Water Improvement Commission Fund; and § 22-22-12 which relates to designation as state water pollution control agency.

- (3) §§ 22-23-1 through 22-23-19 and § 22-23-54 which refer to public water systems; § 22-23-50 which refers to appeals procedures; and § 22-23-51 which establishes the Safe Drinking Water Fund;
- (4) \$\$ 22-25-3 through 22-25-6 which establish the Board of Certification of Water and Wastewater Systems Personnel;
- (5) § 22-24-3(a), (b), and (c) which establish the Alabama Water Well Standards Board; § 22-24-9 which establishes a method of appeal for the Alabama Water Well Standards Board; and § 22-24-10 which establishes the Well Driller's Licensing Fund.
- (6) § 22-30-11(b), (c), (d), and (e), which establish regulation adoption procedures; § 22-30-22, which refers to appeals procedures; and § 22-30-23, which established the Hazardous Waste Management Fund; and
  - (7) § 22-27-5(c) relating to permits and bonds.
- (b) The following sections of the Code of Alabama 1975, as amended, are repealed on October 1, 1982:
- § 9-7-14(a), (b), (c), (d), (e), (f), (g), (k), (l), and (m) which create the Alabama coastal area board; § 9-7-18 which relates to the Coastal area advisory board; § 9-7-19 which relates to the Coastal area board fund; § 9-7-21 which relates to appeals.
- (c) All other laws or parts of laws in conflict with the provisions of the act are hereby repealed.

- (d) The Alabama Department of Environmental Management is hereby exempt from the provisions of the Alabama Administrative Procedures Act (Act No. 855, Reg. Sess. 1981).
- (e) Provided, however, no provision of this act shall be construed to repeal in whole or in part any provision of Act No. 81-1189, H 24, Third Special Session 1981.
- Section 15. Powers of Attorney General not affected. All remedies for the prevention and abatement of pollution given to the Attorney General through the authority of this Act are merely cumulative. Except as provided in § 5(1) and § 5(0) nothing in this Act shall be interpreted as negating or destroying any common law or statutory right. duty, power or authority of the Attorney General of Alabama.
- Section 16. Severability. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.
- Section 17. Effective Date. This Act shall become effective immediately after its passage and approval by the Governor, unless otherwise provided in this Act or after its otherwise becoming law.

Approved May 4, 1982

Time: 3:00 P.M.

I hereby certify that the foregoing copy of an Act of the Legislature of Alabama has been compared with the enrolled Act and it is a true and correct copy thereof.

Given under my hand this 13th day of May, 1982.

McDOWELL LEE Secretary of Senate APPENDIX A-3

§ 9-7 as amended

#### CHAPTER 7.

## PRESERVATION, DEVELOPMENT, ETC., OF COASTAL AREAS.

Sec

9-7-10. Definitions.

9-7-13. Activities deemed permissible uses within coastal area; determination of additional permissible uses.

9-7-14. Coastal area board — Created; composition; qualifications, appointment, term of office and compensation of members; officers; meetings; seal; powers and duties generally; executive director and employees; technical assistance to board; acceptance, use and disposition of funds, facilities, etc.

9-7-16. Department of environmental man-

Sec.

agement — Promulgation of rules and regulations.

9-7-17. Approval by governor of management program.

9-7-18, 9-7-19. Repealed.

9-7-20. Requirements as to permits generally; regulation of uses of lands within coastal area by local government units; filing with board copies of applications for federal permits.

9-7-21. Repealed.

9-7-22. Proceedings for enforcement of provisions of chapter; penalties and remedies for violation of provisions of chapter.

# § 9-7-10. Definitions.

The following terms, whenever used in this chapter shall have the following respective meanings unless the context clearly indicates otherwise:

- (1) Coastal area. The coastal waters, including the lands therein and thereunder, and the adjacent shorelands, including the waters therein and thereunder, strongly influenced by each and in proximity to the shorelines of Alabama and including transitional and intertidal areas, salt marshes, wetlands, and beaches. The area extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters.
- (2) Coastal waters. Those waters, adjacent to the shoreline, which contain a measurable quantity or percentage of sea water, including but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.
- (3) Estuary. That part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage.
- (4) ESTUARINE SANCTUARY. A research area which may include any part or all of an estuary, adjoining transitional areas and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.
- (5) Management program. Such term includes, but is not limited to, a comprehensive statement in words, maps, illustrations or other media of communication, prepared and adopted by the state in accordance with the provisions of this chapter, setting forth objectives, policies and standards to guide public and private users of lands and waters in the coastal area.
- (6) Water use. Activities which are conducted in or on the water, but such term does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria or regulations which are incorporated in any program as required by the provisions of this chapter.
- (7) Board. The office of state planning and federal programs established pursuant to sections 41-9-205 through 41-9-214.
- (8) DEPARTMENT. The Alabama department of environmental management.
- (9) Person. Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, other legal entity or business organization or any state or local governmental entity and any successor of the foregoing. (Acts 1976, No. 534, p. 686, § 3; Acts 1982, No. 82-612, § 11.)

# § 9-7-13. Activities deemed permissible uses within coastal area; determination of additional permissible uses.

- (a) The legislature of Alabama finds that the following activities shall constitute permissible uses within the coastal area:
  - (1) The accomplishment of emergency decrees of any duly appointed health officer of a county or municipality or of the state acting to protect the public health and safety;
  - (2) The conservation, repletion and research activities of the Marine Environmental Sciences Consortium, the marine resources division of the department of conservation and natural resources and the Mississippi-Alabama Sea Grant Consortium;
  - (3) The exercise of riparian rights by the owner of the riparian rights; provided, that the construction and maintenance of piers, boathouses and similar structures shall be on pilings that permit a reasonably unobstructed ebb and flow of the tide;
  - (4) The normal maintenance and repair of bulkheads, piers, roads and highways existing on the date of final approval of the rules and regulations pursuant to this chapter;
  - (5) The use of any structure on land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling;
  - (6) Normal maintenance and repair activities of railroads and of utilities or other persons engaged in transportation or in telephone communication service or in the distribution or transmission of gas, electricity or water or the collection of sewage, including inspecting, maintaining, repairing or renewing on private or public rights-of-way any sewers, mains, conduits, pipes, cables, utility tunnels, power lines, towers, poles, tracks, bridges, trestles and drainage facilities or the like or making service connections thereto or inspecting, maintaining, repairing or renewing any substation, pumping or lifting facility;
  - (7) Activities of any mosquito control commission which is a political subdivision or agency of the state of Alabama;
  - (8) The use of any land for the purpose of planting, growing or harvesting plants, crops, trees or other agricultural or forestry products, including normal private road construction, raising livestock or poultry or for other agricultural purposes; and
  - (9) Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to final approval of the rules and regulations pursuant to this chapter and which development was initiated prior to such approval.
- (b) Upon recommendation from the board, the department shall determine, by rule and regulation, from time to time, additional permissible uses within the coastal area. (Acts 1976, No. 534, p. 686, § 4; Acts 1982, No. 82-612, § 11.)

The 1982 amendment, effective October 1, 1982, in subdivision (a)(5) substituted "on" for "or" and in paragraph (9)(h) substituted "Upon

recommendation from the board, the Department" for "The board."

- § 9-7-14. Coastal area board Created; composition; qualifications, appointment, term of office and compensation of members; officers; meetings; seal; powers and duties generally; executive director and employees; technical assistance to board; acceptance, use and disposition of funds, facilities, etc.
- (a) through (g) Repealed by Acts 1982, No. 82-612, § 14(b), effective October 1, 1982.
- (h) The board shall have authority to solicit, accept and expend funds from the state, the United States and from any other source, to carry out provisions, purposes and policies of this chapter.
- (i) The board shall coordinate activities and plans of all existing interests, other state governments, local governments, regional planning agencies, interstate compacts and commissions and federal agencies which have programs relevant to the coastal area.
- (j) When necessary to achieve conformance with the management program provided for in section 9-7-15, the board shall have the power to acquire fee simple and less than fee simple interest in land, water and other property under the procedures of Title 18 of this Code, or other means; provided, however, that such power shall not apply to property and interest therein which is devoted to public use. In the implementation of this chapter no governmental agency shall adopt a rule or regulation that is unduly restrictive or constitutes a taking of property without payment or full compensation in accordance with the Constitution of the state of Alabama or of the United States.

(k) through (m) Repealed by Acts 1982, No. 82-612, § 14(b), effective October 1, 1982.

(n) Pursuant to the provisions of subsection (m) of this section, the board is authorized to accept and use such funds, facilities or personnel as may be or may become available for the purposes of this chapter. (Acts 1976, No. 534, p. 686, §§ 5, 14; Acts 1982, No. 82-612, § 14(b).)

Code commissioner's note. — Subsection Acts 1982, No. 82-612, § 14(b), effective (m) referred to in subsection (n) was repealed by October 1, 1982.

# § 9-7-16. Department of environmental management — Promulgation of rules and regulations.

The department shall develop and promulgate, after notice and opportunity for full participation by relevant federal agencies, state agencies, local governments, regional organizations, port authorities and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the management program provided for in this chapter. (Acts 1976, No. 534, p. 686, § 7; Acts 1982, No. 82-612, § 11.)

The 1982 amendment, effective October 1, 1982, substituted "Department" for "board."

#### § 9-7-17. Approval by governor of management program.

- (a) The management program provided for in section 9-7-15 shall not become effective until approved by the governor.
- (b) Repealed by Acts 1982, No. 82-612, effective October 1. (Acts 1976, No. 534, p. 686, § 10; Acts 1982, No. 82-612, § 11.)

The 1982 amendment, effective October 1, 1982, deleted former subsection (b), relating to rules and regulations proposed by the board.

- §§ 9-7-18, 9-7-19. Repealed by Acts 1982, No. 82-612, § 14(b), effective October 1, 1982.
- § 9-7-20. Requirements as to permits generally; regulation of uses of lands within coastal area by local government units; filing with board copies of applications for federal permits.
- (a) It is the intent and purpose of this section to avoid duplication whenever possible as to managing activities within the coastal area and yet assure compliance with the management program established by the board.
- (b) The department shall review the permitting activities of persons within the coastal area in order to insure consistency with the coastal area management program and where necessary to issue permits to persons to insure compliance and consistency with said program. No agency can issue a permit for any activity in the coastal area that the department of environmental management finds to be inconsistent with the coastal area management program.
- (c) There may well be uses of certain lands included within the boundaries of the coastal area which will not have a "direct and significant" impact on coastal waters. Such uses may be subject to regulation by local units of government (cities or counties) within the framework of the management program adopted by the board.
- (d) Any person, corporation or partnership filing an application for the federal permit for an activity to be conducted within the boundaries of the coastal area shall deliver to the department an informational copy of such application. (Acts 1976, No. 534, p. 686, § 8; Acts 1982, No. 82-612, § 11.)
- § 9-7-21. Repealed by Acts 1982, No. 82-612, § 14(b), effective October 1, 1982.

# § 9-7-22. Proceedings for enforcement of provisions of chapter; penalties and remedies for violation of provisions of chapter.

- (a) The department, the attorney general, a district attorney having jurisdiction or an assistant district attorney having jurisdiction may initiate an action against any person or persons, partnership, corporation, state or local government entity if in the judgment of the department such party is determined to be in violation of the management program of the board (department).
- (b) Jurisdiction and venue for judicial actions brought pursuant to this chapter shall lie in any county or counties in which the alleged violation occurs or in which property affected by such violation is located.
- (c) Threatened or actual violations of this chapter may be restrained by order of the circuit court of the county in which any affected area of the coastal area or any part thereof lies. Such actions shall be initiated as provided for in subsection (a) of this section.
- (d) Nothing in this chapter shall preclude other statutory or common-law remedies by public or private parties against violators or nonviolators of this chapter. (Acts 1976, No. 534, p. 686, § 12; Acts 1982, No. 82-612, § 11.)

The 1982 amendment, effective October 1, 1982, in subsection (a) substituted "Department, the Attorney General" for "state of "Department" for "board."

APPENDIX B

#### APPENDIX B

# EXISTING LEGAL AUTHORITIES EXERCISED BY STATE AGENCIES

The Alabama Department of Environmental Management (DEM) and the Department of Economic and Community Affairs, Office of State Planning and Federal Programs (OSP) will carry out its program in coordination with other state agencies, and a brief description of the authorities and programs carried out by DEM and other state agencies which affect the coastal area is presented below.

### A. DEM'S WATER DIVISION

DEM's Water Quality Control Authority is encompassed by the Code of Alabama 1975. Sections 22-22-1 through 22-22-14 as amended. The DEM, having statewide geographical jurisdiction, exercises substantial regulatory authority within the coastal area. By specific provision in Act 534, the DEM is precluded from issuing a permit for activities over which it has jurisdiction until it has made a determination that the permit will be in compliance with the coastal area management program.

The DEM is broadly charged with the responsibility for conservation of the ground and surface waters within the coastal area and water supplies; propagation of wildlife, fish and aquatic life; and beneficial uses. Specifically, the DEM has the authority to provide for the prevention, abatement and control of new or existing water pollution. In execution of these responsibilities, it supervises the enforcement of all laws relating to water pollution in the state and establishes criteria for acceptable limits of pollution.

The agency issues permits for the discharge of sewage, industrial waste entering directly or through a municipal or private treatment facilities and other waste into the waters of the state. The DEM is given wide latitude through its rule—making authority which is reflected by the fact that each permit stipulates the conditions under which waste discharge may be permitted. In addition to having responsibility for certification of permits issued by the Environmental Protection Agency, Corps of Engineers and the Nuclear Regulatory Commission, DEM is designated the State Water Pollution Control Agency for all purposes of the Federal Water Pollution Control Act. It issues joint public notices with the U.S. Corps of Engineers.

### B. DEM'S AIR DIVISION

The Alabama Air Pollution Control Act of 1971, as amended, (Code of Alabama, 1975, Sections 22-28-1 through 22-8-23) established a commission having state-wide authority to examine problems of air pollution and develop means of controlling and preventing air pollution in the state. The DEM considers and adopts rules and regulations controlling and preventing air pollution, investigates conditions which it believes to be in violation of its rules and

regulations, and refers matters constituting violations to the State Attorney General or appropriate district attorneys.

The DEM regulates, through a permit system, the construction, installation, modification, or use of any device which it finds may cause or contribute to air pollution or which is intended primarily to prevent or control the emission of air pollutants. In addition to its broad powers, the DEM has the authority to adopt regulations specifically relating to ambient air quality standards, emission standards, standards and conditions regarding fuel sales; pollution episode, alert and abatement standards; inspection procedures and requirements for equipment, facilities, vehicles, vessels or aircraft which may cause or contribute to air pollution; reporting requirements; and effective dates for its standards.

### C. STATE OIL AND GAS BOARD

In addition to its responsibilities for the prevention of waste of oil and gas and the protection of correlative rights, the State Oil and Gas Board, by the provisions of the Code of Alabama, 1975, Sections 9-17-1 through 9-17-32, is charged with the responsibility of requiring that oil and gas well drilling operations be conducted in such a manner as to prevent the escape of oil or gas out of one stratum to another; to prevent the intrusion of water from one stratum into a separate oil or gas stratum; to prevent the pollution of fresh water supplies by oil, gas or saltwater; to prevent wells from being drilled, operated or produced in a manner which would cause injury to neighboring property; to prevent the drowning by water of any stratum capable of producing oil or gas; and to prevent "blowout" "caving," and "seepage".

The jurisdiction of the Board extends throughout the coastal area, including activities on coastal waters to the extent of state-ownership thereof. The Board in its rule-making, has developed comprehensive onshore and offshore regulations preventing pollution and governing disposal of waste generated incident to oil and gas exploration and development.

The Board issues drilling permits and other orders upon the finding that proposed activities comply with both stated conservation measures and the stringent pollution control requirements provided by statute and regulation.

### D. ALABAMA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

The Department of Conservation and Natural Resources is given broad authority within the coastal area by provisions of <a href="Code of Alabama">Code of Alabama</a>, 1975. Sections 9-2-1 through 9-2-130. The Department, which is composed of the Game and Fish Division, State Lands Division, State Parks Division, Marine Police, and Marine Resources Division, is charged with the state-wide responsibility of promotion and protection of wildlife; supervision and protection of state forest, parks, and protection of state forest,

parks, and monuments, the control of public lands which are not administered by other agencies, administration of the game and fish laws, boat registration, and the management and protection of marine resources.

The Department exercises complete authority over all seafoods in the Alabama waters including all public and natural oyster reefs and oyster bottoms. Its rules and regulations prescribe the times and manner by which all classes of seafoods may be taken.

Through the State Lands Division, the Department manages and controls submarginal lands and river and bay bottoms. It establishes wildlife management areas, supervises public lands not under the control of other agencies, and may lease certain state lands for exploration, development and production of oil, gas and other minerals.

The State Parks Division has the responsibility of managing and operating state parks, historical sites and recreation areas.

The agency regulates, through the issuance of permits, the following activities on State-owned lands and submerged lands; seismic exploration, aerial power lines over navigable streams, pipelines across navigable streams, buried or submerged cable, and dredging of water bottoms under navigable streams. Additional responsibilities include the administration of the Gulf States Marine Fisheries Compact and review of coastal area development projects covered under the U.S. Army Corps of Engineers permit system.

# -1. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - FISH, GAME, AND WILDLIFE

The responsibilities and authority of the Department of Conservation and Natural Resources with respect to the management of fish, game and wildlife within the state, hence within the coastal area, are expanded by the legislative provisions appearing in Code of Alabama, 1975, Sections 9-11-1 through 9-11-374. The statutes specifically allow the Department to acquire lands within the state which are suitable for protection and propagation of game and fish. Such lands, along with the other held in fee or trust or under lease by the state, may be used to establish and maintain state game refuges or sanctuaries for the protection, preservation or propagation of game birds, animals or fish. While interference with wildlife in these areas is strictly prohibited, detailed provision is made for the issuance of permits for hunting, fishing and trapping on other lands within the state.

#### 2. DEPARTMENT OF CONSERVATION - MARINE RESOURCES

Detailed authority for the Conservation of Alabama's Marine Resources appears in <u>Code of Alabama</u>, 1975, Section 9-12-1 through 9-12-162. Responsibility for the management of this resource throughout the state rests with the Department of Conservation and

Natural Resources. This legislation provides plenary authority to the Department for regulating the cultivation and removal of oysters, and the taking, processing and distribution of turtles, shrimp, crabs, fish and other marine resources.

The Department also assumes responsibility for the establishment of artificial fishing reefs in offshore waters. The chief executive of the Department is authorized to enter into reciprocal agreements with other states whereby Alabama citizens may be permitted to utilize marine resources for commercial purposes from the waters under the jurisdiction of cooperating states.

The Director of the Department of Conservation and Natural Resources along with two other Alabama representatives are members of the Gulf States Marine Fisheries Commission. This Commission coordinates with its counterparts in Florida, Mississippi, Louisiana and Texas under the Gulf States Marine Fisheries Compact to promote the better utilization of the fisheries, marine, shell and anadramous, of the Gulf of Mexico by the development of a joint program for the promotion and protection of fisheries and the prevention of the physical waste of fisheries from any cause.

#### S. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - STATE PARKS

Under the provisions of Code of Alabama, 1975, Sections 9-14-1 through 9-14-29, the State Parks System is defined to be comprised of existing and after-acquired parks, monuments and historical sites, and parkways. The statute defines park as "any area of land primarily valuable for recreational purposes because of its scenic, historic, prehistoric, archaeologic, scientific or other distinctive characteristics or natural features." Monument or historic site is defined as "any area of land, with or without buildings, structures or other objects thereon, wholly or primarily of historic, prehistoric, archaeologic, scientific or commemorative interest or value." A parkway is defined as "any elongated strip of land suitable for recreation and pleasure vehicle road to which the owners or lessees of abutting property shall have no right of direct access." The Department of Conservation and Natural Resources is charged with the responsibilty of preservation and upkeep of the State Park System. The State Highway Department is authorized to construct and maintain necessary roads leading from a state highway to any land included within the State Park System.

This statute provides a means by which sites designated in the Alabama Coastal Area Management Program (ACAMP) to have particular scenic, historic, archaeologic, scientific or aesthetic value may be preserved and maintained. The Department of Conservation and Natural Resources is specifically authorized to accept lands for inclusion within the State Park System.

# \*4. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - PUBLIC LANDS

By the authority reflected in Code of Alabama, 1975, Sections 9-15-1 through 9-15-53, the Department of Conservation and Natural Resources - State Lands Division is given jurisdiction over and control of all lands owned by the state which are not utilized for the immediate purposes of any institution or department, and are not being cultivated, leased or mined (unused lands). In the exercise of this jurisdiction, the Department is required to protect such lands and make recommendations for use which will be most conducive to the interests of the state. Detailed provision is made in the statute for the management of these unused lands.

The Department maintains lists of used and unused lands to which the state holds legal title. Additionally, the Department is charged with the responsibility of ascertaining whether all lands allocated to the state have been received, and if not, to take immediate and appropriate action to acquire such lands for the state.

The Department is vested with the title to all lands of the swamp and overflowed indemnity lands which were patented to the State of Alabama by the federal government subsequent to September 5, 1951. The Commissioner of the Department is responsible for utilizing these lands for the purposes which are most expedient and beneficial to the state; the lands being supervised and managed in the same manner as other lands under Department supervision. Likewise the Department is authorized to exercise complete management and supervision over "school lands", which are sections numbered 16 in every township granted by the United States for the use of schools in the township, together with other lands which may have been granted to any township or district for the use of schools.

The authority of the Department of Conservation and Natural Resources over public lands will support the implementation of a number of objectives of the Alabama Coastal Management Program. In addition to providing for the utilization and management of state-owned lands within the coastal area in accordance with the Management Program, control over the coastal lands and beaches from coastal waters up to the mean high tide boundary is assured if effectively implemented.

# DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - LANDS DIVISION

By the authority appearing in Code of Alabama, 1975, Sections 9-17-60 through 9-17-69, the Lands Division of the Department of Conservation and Natural Resources is authorized to lease any interests in state lands under the jurisdiction of the Department for the exploration, development and production of oil, gas or any other mineral associated with such lands. The Department is also the authorized leasing authority for interests in lands underlying navigable streams, navigable waters, bays, estuaries, lagoons, bayous,

or lakes and the shores along any navigable waters to high-tide mark as well as submerged lands in the Gulf of Mexico within the seaward boundary of the state for exploration, development and production of oil, gas or any other mineral.

Leasing of such state interests in lands for mineral development neither constitutes a permit to conduct mining activities on the land or implies that such a permit will be issued by the appropriate state regulatory authority.

# DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - REGISTRATION AND OPERATION OF VESSELS

The provisions of Code of Alabama, 1975, Section s 35-5-1 through 35-5-36, require the registration of all vessels in Alabama. The Department, through its Division of Marine Police, promulgates and enforces water safety regulations.

#### E. STATE FORESTRY COMMISSION

The State Forestry Commission functions under the provisions of Code of Alabama, 1975, Sections 9-3-1 through 9-3-10. It is responsible for the protection, conservation and development of timber and forest resources throughout the state, as well as the maintenance, supervision, operation and control of all state forests. The Commission cooperates with the U.S. Department of Agriculture and other federal agencies in the protection of timberlands from fire, insects and disease, and the acquisition of forest lands to be developed as state forests, and implements the Silvercultural Runoff Management Program.

Management and enforcement authority of the Commission includes taking any action deemed necessary to prevent and extinguish forest fires; enforcement of all laws pertaining to the protection of forests and woodlands; prosecution of related violations; control of forest pests; and the management of state forests.

#### 1. STATE FORESTRY COMMISSION -FORESTS AND FOREST PRODUCTS

The detailed management authority of the State Forestry Commission is derived from the provisions of Code of Alabama, 1975, Sections 9-13-1 through 9-13-201 and Section 9-3-1 through 9-3-4. In addition to provisions for acquisition of lands to be administered as state forests or for other purposes incident to the operation of the agency, the Commission has general authority to take reasonable and practical measures to prevent and suppress forest fires and other harmful influences on forest growth. In addition to enforcing laws which prevent willful woods' arson which includes brush, grass, or other inflammable vegetation, the Commission is given statutory authority to prevent the willful destruction or injury of any plant by any method without consent of the owner. This provision serves as a primary authority for the preservation of vegetation in the coastal

area. Moreover, it provides an indispensable tool for dunes preservation by methods utilizing vegetation.

Commission authority includes sanctions for the unauthorized cutting, removal and transportation of forest products. A privilege tax on the severance of forest products is levied by the authority.

Part of the responsibilities of the State Forestry Commission is to afford protection of forest trees from insect infestation or tree disease infections. Initially, the protection procedure is dependent upon the voluntary cooperation between private landowners and the State Forester. Hoever, on the determination that the infestation or infection is of such nature as to be a menace to forest lands of adjacent owners, the State Forester may declare the existence of a control zone and ultimately is empowered to suppress or eradicate the infestation or infection in any reasonable manner without the consent of the landowner.

When appropriate conditions exist within the state which produce extraordinary danger from fire, the State Forestry Commission may, by regulation, declare a drought emergency condition within the affected area. Under such circumstances it becomes unlawful for any person within the area to set any fire which may cause a forest, grass or woods fire.

The State Forester serves as Compact Administrator in Alabama for the Southeastern Interstate Forest Fire Protection Compact, the purpose of which is to promote effective prevention and control of forest fires in the southeastern United States.

#### F. STATE AERONAUTICS DEPARTMENT

#### f. Other Access to Coastal Waters

Access to coastal recreational opportunities is further provided by numerous fish camps, privately operated boat ramps, and marinas. These privately owned operations, which usually charge a fee for the access opportunity they provide, supplement the public areas previously discussed and often provide access to areas where no public facilities are available. This is especially true in the upper reaches of the Mobile-Tensaw River Delta (see Figure D-2).

The Alabama Aeronautics Department Act of 1945 which appears in Code of Alabama, 1975, Sections 4-2-1 through 4-2-95, establishes the Alabama Department of Aeronautics and gives it the broad responsibility of supervising all phases of civil aeronautics in Alabama including the development of a statewide system of airports. The governing body of the Department is the Alabama Aeronautics Commission. It encourages aeronautic safety and cooperates with national and other authorities to eliminate duplication of functions. A number of the enforcement and regulatory functions of the Department relate specifically to the coastal area. The Department may acquire by purchase, condemnation proceedings, or otherwise, property for the

purpose of establishing airports. Likewise, it may acquire unobstructed air space easements necessary to airport functions. Through the Department and upon the request of the United States, any city in Alabama may provide up to 50 acres of land to the federal government for use as an aircraft control and warning station.

By authority of the Airport Zoning Act, <u>Code of Alabama, 1975</u>, Sections 4-6-1 through 4-6-15, counties and <u>municipalities</u> are authorized to promulgate airport zoning regulations through an airport zoning commission. These regulations may require a permit prior to construction of a new structure or alteration of an existing one within the jurisdiction of the commission.

#### G. ALABAMA STATE HIGHWAY DEPARTMENT

The State Highway Department, which is organized and functions under the authority appearing in Code of Alabama, 1975, Sections 23-1-1 through 23-1-228, is responsible for the construction, repair and maintenance of public roads and related facilities. The Department is authorized to acquire appropriate interests in land necessary to the execution of its responsibilities. Specifically, on the authority of the "Highway Beautification Act" the State Highway Director is "authorized to acquire land necessary for the restoration, preservation and enhancement of scenic beauty and the establishment of rest areas (associated with state highway)." By this authority, coastal areas having special aesthetic and scenic qualities may be preserved in accordance with coastal management program objectives.

In exercise of its rule-making authority, the Department issues permits for outdoor advertising, directional signs, median crossovers, turnouts for driveways, oversize and overweight vehicles, utility company facility locations, the establishment of junkyards, and the placement of county solid waste containers.

#### H. ALABAMA PUBLIC SERVICE COMMISSION

The Public Service Commission supervises and regulates public utilities and carriers by the Authority appearing in Code of Alabama, 1975, Sections 37-1 through 37-1-137. Duties of the Commission include: supervision and regulation of public utilities, common and contract carriers, and brokers as to charges and services; regulation of bridges, toll roads, and ferries including the grant and revocation of certificates of convenience and necessity; and, regulation of gas pipelines, radio utility and interstate air carriers.

#### I. ALABAMA STATE DOCKS DEPARTMENT

The State Docks Department was created by the authority appearing in Code of Alabama, 1975, Sections 33-1-1 through 33-1-36. The purpose of the agency is to promote, supervise, control, manage and direct the state docks and associated state lands. The Department shares nonexclusive jurisdiction over the waters and shores of all

rivers and streams within the state which are navigable, or which may be made navigable, for commercial traffic. The Docks Department is authorized to acquire lands necessary to the execution of its responsibilities. It may sell, lease or exchange property over which it has control, subject to approval by the Governor.

On the authority of a series of periodic legislative provisions, the Department has established a system of inland docks facilities on Alabama's inland rivers. In addition to the enforcement of regulations relating to these and other docks, harbors and ports, the Department fixes changes for its services and grants and revokes terminal licenses.

The Department requires construction permits for structures in water on navigable streams. Such structures include piers, boat basins, overhead power lines, and underwater pipelines. In lieu of using prescribed forms, applications are submitted to the Department in a letter of intent.

#### J. OBSTRUCTIONS TO NAVIGATIONS ACT

This Act, <u>Code of Alabama</u>, <u>1975</u>, Sections 33-7-1 through 33-7-53, consists of several diverse provisions aimed at maintaining the navigability of waters in the state, which are declared to be public throughfares. County commissions are authorized to contract for opening, cleaning out or keeping free from obstructions any navigable stream within the county. Fines are imposed for the intentional or willful obstruction of a navigable watercourse by any means including floating timber to market. Any person who diverts a stream, whether navigable or not, from its natural channel is held liable for sustained damages.

Specific provisions are made for operations within Mobile Harbor. Fastening a vessel of any description "to any beacon or light stake or piling which may be of any use or benefit in maintaining use of the dredged channel in the Bay of Mobile" constitutes a crime. Intentional injury to any part of the dredged channel in Mobile Bay between the Port of Mobile and the lower part of the Bay, or to any navigational aid, constitutes a crime punishable by a fine of up to \$10,000 and imprisonment for a period not to exceed 20 years. Also, any master or person in charge of a vessel drawing more than 12 feet of water must have a permit from the harbor master prior to entry into the dredged channel. Failure to secure this permit constitutes a criminal offense punishable by fine of up to \$10,000 and imprisonment for not more than 10 years.

Other provisions of the act specify the conditions upon which one may gain an easement and right to construct dams across navigable rivers. Generally, the construction of such a dam must be predicated upon the improvement of navigation of the river and development of the resulting water power. Eminent domain procedures may be exercised for acquisition of lands to be flooded by the slack water pool.

The act also provides that owners of riparian lands upon navigable waters may install facilities in front of their lands to accommodate the activities associated with river commerce. Riparian owners may use their lands in connection with such facilities and dredge out and deepen the approaches to the facilities. It is provided however, that no structures shall be built or maintained upon state lands which in any manner unreasonably obstructs navigation. All state lands used in this manner by riparian owners are subject to be vacated by the state as necessary in aid of navigability and safety of the watercourse; to protect abutting property; or to insure public safety.

An additional important provision of the act (Section 33-7-53) relates to acquisition of tidelands by riparian owners. This section specifically states that "the owner of any lands in the State of Alabama abutting on tidelands (controlled or owned by the State). which shall not have been approved by or under valid public authority and shall not be otherwise devoted to public use, shall be authorized to acquire such tidelands and to fill, reclaim or otherwise improve same and to fill in, reclaim or other wise improve the abutting submerged land and to own, use, mortgage and convey the lands so reclaimed, filled, or improved, any improvements thereon" subject to the following conditions and approval: (1) conformance to any stipulated or established harbor line, (2) if the land is to be used for a bridge, road or causeway over navigable waters; for a bridgehead or approach: or for terminal facilities abutting on the bridge. road or causeway plans for the bridge, road or causeway must be approved by appropriate federal authorities, the Director of the State Docks Department, and the Governor. When appropriate approvals are obtained and construction of the improvement pursuant to the plans is completed, title to the subject lands and the entire improvement thereon vests in the riparian owner. (3) if the proposed or constructed improvement on the land is different from those enumerated above, the riparian owner may gain totle to the land only by obtaining county commission approval of the county in which the land is situated, and approval of both the Director of the State Docks Department and the Governor, provided that notice of application for the required approvals is given by publication in the county newspaper at least 10 days before the request. Following the required approvals, title passes to the riparian owner upon filing, for record, a certificate of the appropriate approvals.

The provisions of this act promote the utility of and encourage development along Alabama's navigable waterways. Each of the development activities which it authorizes and encourages, nowever, requires approval by appropriate state and federal regulatory authorities.

#### K. AMERAPORT OFFSHORE HARBOR AND TERMINAL COMMISSION

The Ameraport Commission is organized under the provisions of Code of Alabama, 1975, Sections 33-10-1 through 33-10-26, to promote, plan, construct, maintain and manage a deep draft narbor and

terminal. Among other broad powers, the Commission is authorized to dredge and maintain shipways, channels, slips, basins, and turning basins. It is given the right to acquire water bottoms inside and outside the territorial limits of the state and specifically the state is directed to grant to the Commission a lease on any state-owned water bottoms which are selected by it as sites for the harbor and terminal. The Commission is also charged with asserting and protecting Alabama's economic, social, and environmental interests in the development of any deep draft harbor and terminal outside the State of Alabama where such development may have an impact upon the state.

# L. ALABAMA DEPARTMENT OF CIVIL DEFENSE

The Alabama Civil Defense Act of 1955, appearing in <u>Code of Alabama</u>, 1975, Sections 31-9-1 through 31-9-24, provides for the establishment of the Department of Civil Defense. Among its other responsibilities the Agency is responsible for "the preparation for and carrying out of all emergency fuctions...to prevent, minimize and repair injury and damage insulting from disasters caused...by fir, flood, earthquake or other natural cause."

Under the terms of the Act, the Governor is specifically authorized to promulgate orders, rules and regulations necessary to the execution of civil defense responsibilities. Additionally he is encouraged to prepare a comprehensive civil defense plan in coordination with plans of the federal government. The plan may include mutual or reciprocal aid agreements between states or political subdivisions within the state.

Local civil defense organizations are authorized to develop mutual aid agreements with other public and private agencies within the state. The detailed specific authority of these organizations is also enumerated.

The state is granted immunity from liability for torts resulting from civil defense activities. Individuals who grant licenses or privileges per use of real estate for shelters are afforded the same protection.

#### • M. ALABAMA HISTORICAL COMMISSION

The Alabama Historical Commission (Code of Alabama, 1975, Sections 41-9-240 through 41-9-259), was formed to promote and increase interest, knowledge and understanding of the history of Alabama. It is vested with the power of eminent domain for the purpose of acquiring historical structures or sites of exceptional importance, including buildings, sites, objects or monuments of special significance to our...heritage, including post roads, traces, ruins...places of treaties, cemeteries, fortifications, and... archaeological sites for excavational, salvage, protective and interpretive purposes."

Having status as a state agency, the Commission establishes criteria for certification, selection, and acquisition of properties for state ownership and maintenance.

### N. ABORIGINAL MOUNDS, EARTHWORKS AND OTHER ANTIQUITIES

By the provisions of <u>Code of Alabama</u>, 1975, Sections 41-3-1 through 41-3-6, the State of Alabama reserves the exclusive right and privilege of "exploring, excavating or surveying, ... all aboriginal mounds and other antiquities, earthworks, ancient or historical forts and burial sites within the state." State ownership is expressly declared in all objects found or located within the antiquities.

# O. DEPARTMENT OF INDUSTRIAL RELATIONS - "ALABAMA SURFACE MINING ACT OF 1969"

Code of Alabama, 1975, Sections 9-16-1 through 9-16-15, provides legal authority to the State Department of Industrial Relations to regulate the surface mining of clay, sand, gravel, and other minerals except limestone, marble, dolomite and coal. The Act provides that prior to engaging in the surface mining of any of these minerals, a permit shall be obtained from the Department of Industrial Relations. The requirements for issuance of the permit are specifically noted along with the objectives of the regulatory authority. The purpose in regulating this activity is to provide for the reclamation of the lands which have been mined by surface methods so as to protect property values, preserve natural resources, and protect and promote health and safety considerations.

#### 1. DEPARTMENT OF INDUSTRIAL RELATIONS - MINING SAFETY

In addition to its responsibilities for the regulation of surface mining activities under the Alabama Surface Mining Act of 1969, the Department is responsible for underground mining safety by the provisions of Code of Alabama, 1975, Sections 25-9-1 through 25-9=370. Surface operations associated with underground mining activities also specifically fall within the regulatory provisions of the Act.

#### P. ALABAMA SURFACE MINING COMMISSION

The Alabama Surface Mining Reclamaton Act of 1975 which appears in Code of Alabama, 1975. Sections 9-16-70 through 9-16-53, places statewide jurisdiction over the surface mining of coal in the Surface Mining Commission. The primary responsibility of the Commission is to provide for the safe, responsible and reasonable reclamation of lands upon which coal surface mining activities are conducted. The Commission, which has rule-making authority, issues permits to conduct surface coal mining operations or explorations to persons satisfying the requirements of a detailed licensing procedure.

Strict performance and reporting requirements are enforced by the Commission whose authority complements that of the Environmental Management legislation for responsibilities under the Federal Water Pollution Control Act relating to the investigation and regulation of effects of surface mining upon waters of the state.

# Q. ALABAMA LIQUEFIED PETROLEUM GAS BOARD

The Alabama Liquified Petroleum Gas Board, established under the authority appearing in Code of Alabama, 1975, Sections 9-17-100 through 9-17-110, regulates through its rule-making power, "the design, construction, location, installation and operation of containers, tanks, systems and equipment for storing, utilizing, handling and transporting liquefied petroleum gases."

The statute requires that "before any person shall engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases; ...or in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems" a permit must be first obtained from the Board. Liquefied petroleum gas distributions owned and operated by any municipality of the state are exempt from the provisions of the statute.

#### DEM'S WATER WELL STANDARDS DIVISION

Through provisions appearing in Code of Alabama, 1975, Sections 22-24-1 through 22-24-12, as amended by Act 82-612, provide authority for the establishment and operation of the Alabama Water Well Standards Division within DEM. However, Baldwin County is exempted from the provisions of this chapter of the Alabama Code. legislation applies solely to wells drilled for the production of water. Through its rule making authority the DEM determines the licensing standards of water well drillers in the state. In addition to the possession of a license issued on the basis of his demonstrated competence, a driller is required to file an application of intent to drill a water well prior to commencement of the drilling operation. Additionally, following completion of the water well, the driller is required to submit a report of the well drilled, and from wells specifically designated by the Board or the State Geologist, the driller must furnish a log and set of samples to the State Geological Survey.

#### S. STATE BOARD OF HEALTH

By the provisions of <u>Code of Alabama</u>, <u>1975</u>, Sections 22-2-1 through 22-2-14, the State Board of Health is generally given authority and jurisdiction to exercise general control over the enforcement of the laws relating to public health, investigate causes and prevention of diseases, investigate the influence of localities and employment on the health of the people, and to exercise

supervision and control over county boards of health and county health officers in the enforcement of the public health laws of the state.

# 1. DEM'S - WATER SUPPLY DIVISION

By the provisions of <u>Code of Alabama, 1975</u>, Sections 22-23-1 through 22-23-54, (as amended) the DEM is given "general supervision and control over all the water supplies and water works in the state, insofar as purity, potability, wholesomeness and physical quality of waters furnished may affect the public health." A permit must first be obtained from the DEM before the construction of any water works or water works system for supplying water for domestic purposes to the public. Neither shall a municipality be authorized to incur any debt or issue bonds in aid of such water until a permit approving the source of supply has been obtained. Additionally, a permit is required of any person or organization which supplies water for human consumption or domestic uses or installs additions or modifications to any existing plant, works, systems or sources of water supply. Detailed permit application requirements are prescribed both by the Statute and DEM regulations.

# 2. STATE BOARD OF HEALTH - DISCHARGE OF LITTER AND SEWAGE FROM WATERCRAFT

Alabama law (Code of Alabama, 1975, Sections 33-6-1 through 33-6-12) strictly prohibits the discharge of litter, sewage, and other materials from watercraft. By the provisions of this Act, the DEM is authorized to adopt regulations or promulgate orders designed to control the discharge of waste from watercraft into state waters. Authority is given to impose marine toilet specifications upon vessel manufacturers. By the terms of the act it is made unlawful for any manufacturer to deliver a marine toilet or other sewage dispposal device within the state without having received certification and approval by the DEM.

Owners of marinas or other waterside facilities are required to maintain onshore trash receptacles for the convenience of watercraft occupants. Trash and refuse collected in these receptacles is required to be disposed of in accordance with DEM regulations.

#### 3. DEM'S WASTE WATER SYSTEMS OPERATOR CERTIFICATION

The DEM by the authority reflected in <u>Code of Alabama, 1975</u>, Sections 22-25-1 through 22-25-15 as amended is required to "classify all water treatment plants, water distribution systems and waste water treatment plants affecting the public welfare with regard to the size, type, character of water and waste water to be treated and other physical conditions affecting such treatment plants and distribution systems and according to the skill, knowledge and experience that an operator must have to supervise the operation of said facilities to protect the public health and prevent pollution." In addition he is authorized to appoint a board of certification for the examination of candidates for the purpose of certification of competency to operate and supervise specific classes of waste water systems.

# 4. STATE BOARD OF HEALTH - SEWAGE COLLECTION, TREATMENT AND DISPOSAL

The State Board of Health and/or county Boards of Health, on the authority of the provisions of Code of Alabama, 1975. Sections 22-26-1 through 22-26-6, requires individuals and organizations to install plumbing and sewage collection, treatment and disposal facilities as specified by the rules and regulations of the State Board of Health and county Boards of Health. All plans relating to these facilities shall be submitted for approval by the DEM before construction.

#### 5. DEM's - LANDS DIVISION

The Alabama Solid Wastes Disposal Act, Code of Alabama, 1975, Sections 22-27-1 through 22-27-7; as amended provides the authority of local governing bodies to make solid waste collection and disposal facilities available to the general public. The act provides that garbage disposal shall be by sanitary landfill, approved incineration, composting or other means currently available and approved by the DEM. Trucks which collect garbage are required to be covered, secured or sealed to prevent loss during haulage.

Hazardous wastes are required to be disposed of by special incinerators, separate landfills or other means dictated by the nature of the waste.

The DEM and county Boards of Health are vested with rule-making authority necessary to the specification of procedures to meet the requirements of the act.

#### T. ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

By the provisions of the <u>Code of Alabama, 1975</u>, Sections 2-1-1 through 2-30-62, the Alabama Department of Agriculture and Industries promotes agriculture and industries within the State and is required by law to administer and enforce several regulatory laws, rules and regulations. These duties involve the inspection of numerous commodities for the protection of consumers.

The Commissioner of Agriculture and Industries is a constitutional officer of the State. Of applicability to coastal management is the Commissioner's duty to investigate and seek to secure the development of the industrial possibilities of the State. The Commissioner also serves as head of the Department of Agriculture and Industries. The Department is responsible for registration, sale, and use of pesticides as well as for regulating the custom application of pesticides.

The Department and the State Board of Agriculture and Industries are statutory. The State Board of Agriculture and Industries considers the agricultural and industrial needs of the State.

# U. ALABAMA SOIL AND WATER CONSERVATION COMMITTEE AND COUNTY DISTRICTS

The State Soil and Water Conservation Committee by authority appearing in Code of Alabama, 1975, Sections 9-8-20 through 9-8-32 is authorized to coordinate the formation and define the boundaries of soil and water conservation districts which may be organized within the State upon petition of 25 or more landowners. When duly organized, the district, county levels, through its supervisors, is empowered to implement mandatory erosion preventive and control measures on state lands included within the district and to extend the benefits of erosion control to private landowners within the district on a voluntary basis. The SWCC is designated to implement the runoff management plan for Alabama.

#### V. WATERSHED CONSERVANCY DISTRICTS

Watershed Conservancy Districts or Watershed Districts, which are to function as sub-districts of a Soil and Water Conservation District, are authorized by provisions appearing in Code of Alaabma, 1975, Sections 9-8-50 through 9-8-67. These sub-districts of a Soil and Water Conservation District may be formed in any included watershed area for the purpose of executing programs relating to conservation of water, water usage, flood prevention, flood control, erosion prevention and control of erosion, floodwater and sediment changes. Established in a similar manner as the Soil and Water Conservation District, the objectives of the Watershed Conservancy Districts shall be accomplished through a Board of Directors having responsibilities similar to those of the Supervisors of a Soil and Water Conservation District.

#### W. WATER MANAGEMENT DISTRICTS

The Alabama Water Management Act which appears in <u>Code of Alabama</u>, 1975, Sections 9-9-1 through 9-9-80, provides for the establishment of Water Management Districts and drainage sub-districts. Upon the organization of the district, the Probate Court of the county in which the petition to form the district is filed, appoints a board of three water management commissioners who have the responsibility of developing and implementing a water management plan within the district. The Board of Commissioners is vested with broad powers including that of eminent domain and taxation.

Water Management Districts may be established for the purpose of locating and establishing levees, drains or canals and the construction, maintenance or alteration of ditches, drains, water courses, embankments, floodwater retarding structures, water storage structures, outlets and tide gates, flood gates and pumping plants for preventing floods, providing drainage, reducing sediment and reclaiming wet, swamp, or overflowed lands.

#### X. WATER CONSERVATION AND IRRIGATION AGENCY

Provision is made in the Code of Alabama, 1975, Sections 9-10-1 through 9-10-47, for the voluntary incorporation by a County Commission of a Water Conservation and Irrigation Agency having legal status as an instrumentality of the State of Alabama. The corporation shall have the authority to provide water supplies necessary to its purposes by impounding streams or development and use of wells: to develop and operate irrigation projects including necessary facilities; to provide for the control of floods by impounding surplus water or by other means; to provide for a multiple purpose development including those for water power and water for municipal and industrial uses; to utilize necessary means in the control of soil erosion and silt where project facilities or construction cost repayments are endangered; and to exercise the right of eminent domain. As a condition precedent to the construction of any project of the Water Conservation and Irrigation Agency, the corporation must apply to the Department of Conservation and Natural Resources for a permit authorizing the proposed development.

#### Y. COMPREHENSIVE LAND -USE MANAGEMENT IN FLOOD-PRONE AREAS

By the provisions appearing in <u>Code of Alabama, 1975</u>, Sections 11-19-1 through 11-19-24, the county commission of each Alabama County is authorized to adopt a comprehensive land-use management program for flood-prone areas which lie outside the corporate limits of any municipality in the county. The statutory provisions are directed toward the provisions of flood insurance coverage in flood-prone areas of the state through compliance with the federal requirements of the National Flood Insurance Act of 1968.

Within the unincorporated areas of the county, the Commission is given broad authority to establish comprehensive land-use control measures, specifically including the control and development of subdivisions in flood-prone areas; establish building codes and health regulations which incorporate the minimum standards necessary to reduce flood damage in flood prone areas; provide occupancy standards for the prudent use of flood-prone areas; provide maps for public inspection which clearly delineate flood- prone areas and floodways in the county; conduct necessary related studies; employ technical or advisory personnel, including the establishment of a county planning commission; and adopt county ordinances necessary to the enforcement of regulations.

Among the land-use and control measures specified in the Act is a requirement that for coastal flood-prone areas, the plan must prescribe land uses and minimum elevations of the first floors of buildings, incuding consideration of the need for bulkheads, seawalls and pilings. Specifically, the flood-prone management program must be consistent with "appropriate state standards."

In addition to authorizing the formulation of subdivision and building and health code regulations, the act provides for the establishment of a county planning commission which serves in an advisory function.

Prior to construction and development within an unincorporated area of the county, it is required that plans and specifications, rules and regulations adopted by the Commission. Upon the determination of compliance by the county commission, a permit is issued for the proposed construction. Activities related to utility facilities are expressly exempt from the permitting requirements of the plan.

#### Z. WILD SEA OATS ACT - BALDWIN COUNTY

The provisions of the Wild Sea Oats Act, Acts of Alabama, 1973, Act No. 971, make it a misdeameanor to pick wild sea oats on the beaches of Baldwin County. The Department of Conservation and Natural Resources is made responsible for posting signs to that effect near the beaches.

The term "beaches" is not defined within the Act and therefore the extent of the prohibition is unclear. Historically, the term is taken to mean the land area lying between mean low tide and mean high tide, but it may also include the sandy shore above mean high water which is washed by storms and exceptional tides. The term is also commonly understood to mean the zone between mean high tide and the vegetation line. Whatever the contemplation of the term by the legislature, the Act would serve to preserve the wild sea oats occurring between mean low tide and mean high tide — an area in which sea oats are least-frequently encountered.

Because this land area is owned by the State of Alabama, all vegetation associated with it would be protected not only in Baldwin County but also in Mobile County by provisions of the State Forestry Commission which have previously been discussed.

Considering the shoreline area in which sea oats predominantly grow and previous legislation which would also serve to protect these plants, it is least arguable that the legislature for the purposes of this Act intended the term "beach" to include the land area lying between the mean low watermark and established inland vegetation lines or other natural boundaries.

Whatever the extent of its operation, this statute will provide assistance in dune preservation and mitigation of shoreline erosion within the portion of the coastal area lying within Baldwin County.

#### AA. SAND DUNE PROTECTION ACT - BALDWIN COUNTY

In 1973, the legislature enacted a measure aimed at the preservation of coastal sand within Baldwin County, Acts of Alabama, 1973, Act No. 775. The statute prohibits the operation of any motor vehicle upon coastal sand dunes located 50 feet or further from the waterline without the express written permission of the landowner. The Department of Conservation and Natural Resources is given the responsibility of posting notices to this effect at reasonable intervals along the applicable beaches.

If effectively implemented, this statute represents a dune preservation measure within the Baldwin County portion of the coastal area. The broad management authority of the Department of Conservation with respect to public lands, including those lands lying within 50 feet of the waterline, complements the Dunes Act.

### BB. ISLAND BEACHES AND DUNES PRESERVATION ACT - MOBILE COUNTY

In 1975, the Alabama Legislature responded to the need for beach and dune preservation within the Mobile County portion of the coastal area by approval of Acts of Alabama, 1975, Act No. 1096. This legislation prohibits the operation of any motor vehicle upon the coastal beaches and/or sand dunes "located on any island within... (Mobile County) upon any ... (recorded) subdivided portion thereof without the express written permission of the landowner and all adjacent landowners." Proper notice of the prohibition is required to be posted by the Department of Conservation and Natural Resources.

Considering the geography of the coastal area lying within Mobile County, this authority, coupled with the Department of Conservation's broad public land management authority, will protect coastal beaches and dunes from the impacts of motorized vehicle operation if effectively implemented.

#### CC. MOTORIZED VEHICLE ON BEACHES AND DUNES REGULATION ACT

In 1977, the Alabama Legislature passed Act No. 728, Acts of Alabama, 1977, which authorized the county governing bodies having a population according to the 1970 census of 57,000 to 61,000 to formulate, issue, promulgate and enforce any reasonable rules, regulations, and directives to regulate the operation of any motorized vehicle upon coastal beaches or sand dunes located within the county. Because of the population stipulations of this act, it applies to Baldwin County. If enacted, this act could help to provide some protection of the dunes by regulating motorized vehicles on the beaches and sand dunes.

### DD. MOBILE AND BALDWIN COUNTY COMMISSIONS

Mobile and Baldwin County governments provide enforcement, administrative and service functions to citizens in unincorporated areas. Counties are in fact political subdivisions organized to assist in the local administration of state functions. Many of the important county functions within the coastal area nave been previously discussed within the context of specific state authorities.

Counties regulate through the issuance of permits or licenses such activities as construction in unincorporated flood-prone areas, plumbing and sewage disposal facilities and other activities affecting the public health and welfare. In addition to its other responsibilities, the County Board of Health serves as a field office for DEM's Air Pollution Control Division permitting.

#### EE. MUNICIPAL GOVERNMENTS

In addition to the specific statewide authorities exercised by local governmental units which have been previously discussed, municipal governments operating within the coastal area, exercise a broad spectrum of authority in the exercise of its governmental function and development and operation of its public service responsibilities. Municipal ordinances and regulations will provide a broad authority which will assure local compliance with the management program. Municipalities within the coastal area regulate, through the issuance of zoning permits and building licenses, such activities as construction; electrical, plumbing, sewage and air conditioning and heating installation; parking lot construction; location and construction of signs and billboards; and the location of cemeteries and internments therein.

The City of Mobile utilizes a single application to cover the various permitted elements of a single project. Permitting requirements in smaller cities and towns within the coastal area vary from none up to several in such activities as construction, electrical installation, plumbing, and sewage systems.

# - FF. ALABAMA OFFICE STATE PLANNING AND FEDERAL PROGRAMS

By the provisions of the <u>Code of Alabama, 1975</u> Section 41-9-200, as amended, the OSP is given the authority to develop comprehensive plans for the economic development, enhancement and preservation of the states resources, encourage state program coordination, assist in securing federal assistance, and to review and comment on local areawide applications for federal assistance.

### GG. CONSTITUTION OF ALABAMA OF 1901

Amendment No. 15 to the Alabama Constitution provides that the "Legislature may form or provide for the formation of districts for establishing and maintaining a drainage system;... and for building and maintaining a seawall or other protection against waves, storm or flood therein."

Amendment No. 22 provides "for the formation of drainage districts for establishing and maintaining drainage systems ... (to provide) for the drainage of farm, wet, swamp and overflow lands in the State of Alabama."

Amendment No. 257 provides for the "formation of water management districts for the establishments of works of improvement for the drainage of wet, swamp, and overflowed lands of the state, and for flood prevention or the conservation, development, utilization, and disposal of water within the state."

APPENDIX C

#### APPENDIX C

### ALABAMA COASTAL AREA MANAGEMENT AGENCY COMPOSITION

- I. Director, Alabama Office of State Planning and Federal Programs serves at the discretion of the Governor
- II. Director, Alabama Department of Environmental Management serves at the discretion of Alabama Environmental Management Commission
- III. Members of the Alabama Environmental Management Commission

Thomas R. DeBray Montgomery, Alabama Dr. Claire B. Elliott Birmingham, Alabama

J. Ernest Farnell Mobile, Alabama Stanley L. Granves Sylacauga, Alabama

Dr. Cameron McDonald Birmingham, Alabama Russell L. Riley Auburn, Alabama

IV. Members of the Coastal Resource Advisory Committee

Stephen Still, Jr.
Commisioner, Baldwin County

Gary Greenough Mayor, City of Mobile

Ernest Mancini State Geologist

James Nix Member, Baldwin County Mayor's Association

Hugh Swingle
Director, Marine Resources
Division, Department of
Conservation and Natural
Resources

George Crozier
Director, Marine Environmental
Sciences Consortium

Dan Wiley Commissioner, Mobile County Steve McMillan Coastal Area Advisory Committee

Ned N. Butler Office of State Planning and Federal Programs APPENDIX D

#### APPENDIX D

#### SPECIAL PLANNING ELEMENTS

# I. SHOREFRONT ACCESS AND PROTECTION PLANNING

# A. A Procedure for Assessing Public Areas Requiring Access or Protection

#### 1. Public Access Inventory

A total of 10,970.6 acres of shorefront publicly owned or maintained recreation areas are available for access in the two counties (Figure D-1). Public access in Baldwin County is provided by 9257.6 acres of public owned recreation areas. About 1715 acres of publicly owned land provide access in Mobile County (modified from Trussell, in press).

#### a. Dauphin Island

At this time only one-half mile of Gulf shoreline on Dauphin Island is open to the public. These areas are the Casino (528 acres) and Fort Gaines (10 acres). Shell Mound Park (3 acres) provides visual access to Dauphin Island Bay. The uninhabited portion of western Dauphin island had been leased by Mobile County from a private concern for the past decade. However, the lease has expired, and the owners wish to sell the land. If purhased by the state, approximately eight additional miles of shoreline would be available for public access. Access to the waters surrounding Dauphin Island is provided at a county facility with twelve boat ramps on the island's eastern end.

### b. South Mobile County

Very little public access to coastal lands and waters is provided in south Mobile County. One publicly owned boat ramp in Bayou La Batre is the only public access point along Mobile Bay and Mississippi Sound south of the Mobile City limits.

#### c. City of Mobile

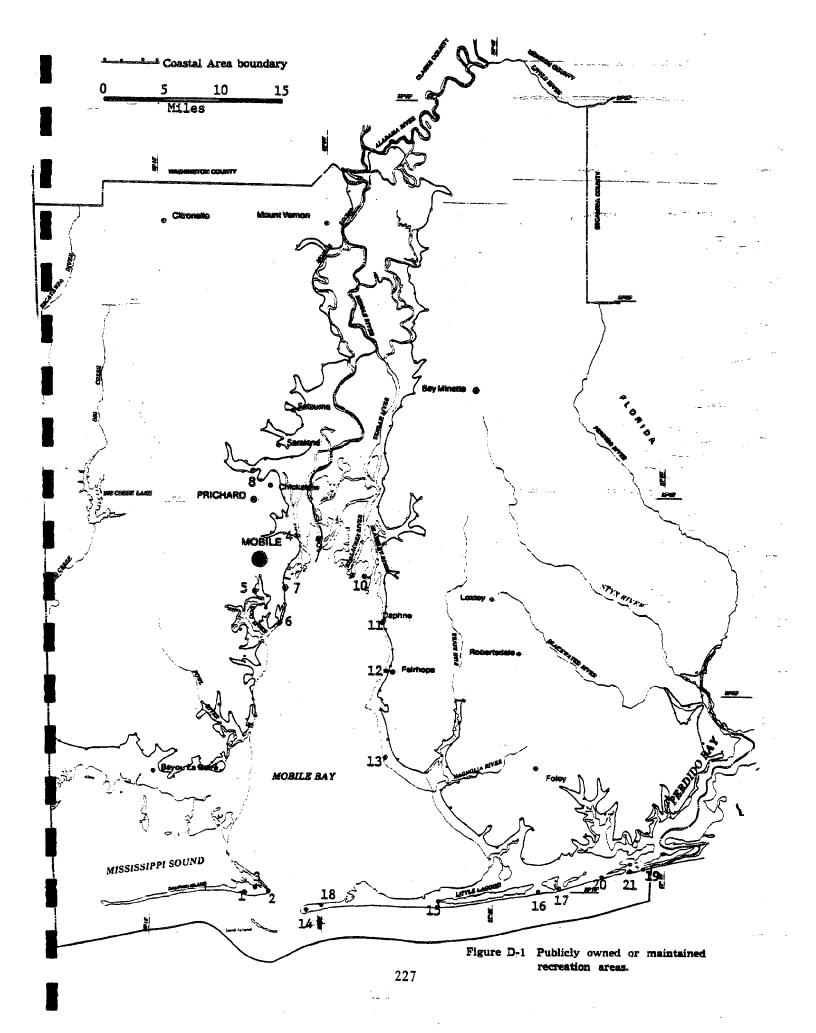
Four access points to coastal waters are provided by the City of Mobile. At the foot of Government Street in downtown Mobile, the Anchor Bed and Waterfront Park (less than 1/2 acre combined) provide visual access. Luscher Park (23.0 acres) provides boat and visual access to upper Dog River. McNally Park (50.0acres) provides visual, boat, and beach access. Bayfront Park (18.9 acres) in the Brockley Complex is now in the planning stages.

#### d. Mobile-Tensaw River Delta

Several public and private facilities provide access to the Mobile- Tensaw River Delta. Chickasabogue Creek Park (1050 acres), the U.S.S. Alabama Recreation Area (32 acres), and Meaner State Park

Figure D-1 Publicly owned or maintained recreation areas

Name		Acres
1)	Casino, Dauphin Island	528
2)	Fort Gaines	10
3)	Shell Mound Park	3
4)	Anchor Bed and Waterfront Park	0.5
5)	Lucsher Park	23
6)	McNally Park	50
7)	Bay Front Park (under development)	19
8)	Cnickasabogue Creek Park	1050
9)	U.S.S. Alabama Recreation Area	32
10)	Meaner State Park	1327
11)	Daphne park	0.5
12)	Fairhope beach/park	38
13)	Mullett Point Park	10
14)	Fort Morgan	410
15)	Perdue Property	1297
16)	Gulf Shores public beach	12.6
17)	Gulf State Park (main section)	5687
18)	Gulf State Park (undeveloped western section)	160
19)	Gulf State Park (undeveloped eastern section)	283
20)	Romar Beach State Park	5
21)	Alabama Point Wayside Park	25
	TOTAL	10,970.6



(1327 acres) provide recreational facilitie, and boat ramps are available at Chickasabogue Creek as well as at Meaner State Park, Chacaloochie Bay, and Appalachee River in the lower delta.

#### e. South Baldwin County

Public access to the Gulf of Mexico, Mobile Bay and other estuarine waters is adequately provided for in south Baldwin County. Along Mobile Bay, access is provided from a small park with boat ramp in Daphne, from two boat ramps and 38 acres of beach and park in Fairhope, from one boat ramp and 10 acres of bayside park near Mullett Point, and from two boat ramps at Weeks Bay. Two other ramps along the northern shore of the Fort Morgan peninsula provide access for boats to lower Mobile Bay and the Gulf of Mexico. 410 acres of state park at Fort Morgan on the peninsula's western tip also provide access, as well as an opportunity to explore a piece of south Alabama's colorful history.

Access to coastal waters is also available from approximately 12.6 acres of public beach provided by the Town of Gulf Shores and Gulf State Park with 6160 acres in 5 units. These areas adequately provide the beach access desired by both local residents and regional or national tourists alike. Boat access is provided from publicly maintained ramps at Cotton Bayou and Boggy Point. Other ramps in southeastern Baldwin County are planned for Lillian and Old River.

#### f. Other Access to Coastal Waters

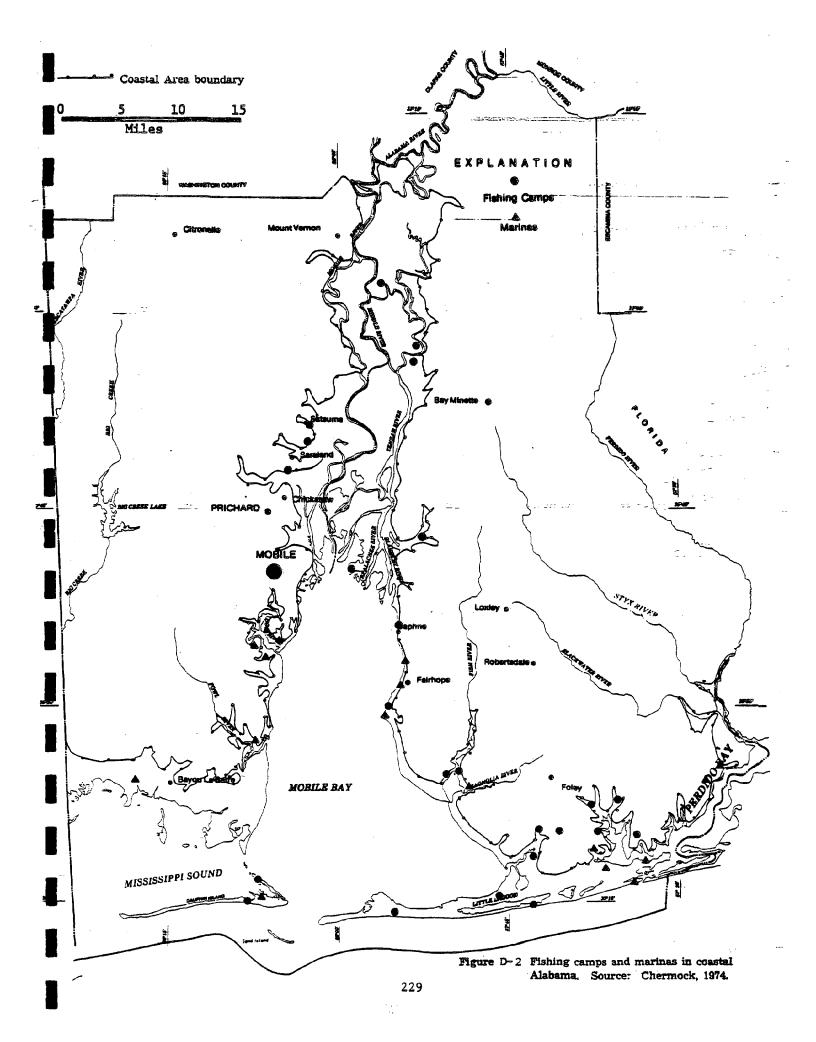
Access to coastal recreational opportunities is futher provided by numerous fish camps, privately operated boat ramps, and marinas. These privately owned operations, which usually charge a fee for the access opprtunity they provide, supplement the public areas previously discussed and often provide access to areas where no public facilities are available. This is especially true in the upper reaches of the Mobile-Tensaw River Delta (see Figure D-2).

#### 2. ACAMP Public Access Priorities

The OSP recognizes the need for more public access opportunity in both counties, most especially Mobile County. To help alleviate this growing public access problem the five following priorities have been identified for action by the OSP.

### a. Acquisition of Dauphin Island's West End

Acquisition of public access rights to the west end of Dauphin Island will easily provide the opportunity for public access that Mobile County needs. Efforts are being made to alleviate a worsening public access problem by acquiring this property. Until the spring of 1978, this area (including its nearly 8 miles of Gulf shoreline) had been leased by Mobile County for publicuse. The property is now for sale by its owners, no access is provided as the lease has not been renewed, and neither Mobile County nor the State of Alabama has been able to appropriate the necessary funds for acquisition.



### b. Develop Access Opportunities within the Urban Waterfront

The provision of public access to coastal Alabama's urban waterfronts is another of the OSP's priorities. Though urban waterfronts are usually of high density land use, opprtunities for public access do exist. It is exactly this high density of land use and high level of waterfront activity which creates public access demand. Waterfront urban parks have been very successful in other parts of the country. In coastal Alabama, these parks could provide access convenient to a large population, and could assist in the revitalization of our urban centers.

#### c. Provide More Boat Access to Coastal Waters

Presently, many opportunities for boat launching into coastal waters do exist. Nearly every publicly owned piece of waterfront property provides this type of facility. Also, many boat ramps are provided by the Alabama Department of Conservation and Natural Resources from properties purchased or leased over a long period (usually not less than 20 years) for this purpose. In addition, many privately operated launches are available for public use, usually at a reasonable cost.

The OSP recognizes the value of these facilities and strongly supports the provision of public boat launching opportunities. The OSP also recognizes the need for additional launching sites, particularly from the shores of South Mobile County. Not only can more launches be provided where demand ishighest, but they can also be provided in close proximity to existing sites such as that on the eastern end of Dauphin Island. This will reduce waterway, traffic, and parking congestion at preexisting sites.

# d. Development of Facilities Supporting Commercial Fisheries and Recreational Boating

The OSP recognizes an existing need for facilities which provide commercial fisheries support and marina facilities for recreational boating. A facility providing commercial fisheries support could include inexpensive dockage and layover space, fuel, unloading facilities, ice house, minor refitting services and supply houses. These same facilities could provide services to recreational boaters. One further value of this type of facility would be its value as a tourist attraction, for a facility of this type could easily be operated and maintained in an attractive condition.

### e. Guarantee of Public Access Rights to Tidelands, Submerged Lands, and Navigable Waters

In Alabama, a problem arises concerning ownership and access to tidelands, submerged lands, and navigable waters. Much of the law concerning ownership of these three areas is rooted in early English common law. The Crown held these areas in trust for the people, and after the American Revolution, the states continued to hold these properties in trust for the people. Title to tidelands, submerged

lands, and navigable wates is in the state. The tidelands, however, are sometimes occupied, possessed, and claimed by private individuals. Steps taken to enforce this claim include the erection of fences or other forms which imply restricted access. Questions arise concerning the limits of these tidelands, especially where accretion, erosion, reliction and filling has occurred.

Submerged lands also are often falsely claimed and/or restricted. Though owned and controlled by the state, private persons can lease these lands for specific purposes. In the case of oyster growing on state owned bottom within 600 yards of a riparian owners shore, there is belief that some riparian owners actually "own" this submerged land. This is not the case, however, and without enforcement of the public's rights to these areas, public recreational use of these lands is limited.

The title to navigable waters lies with the State. The Federal Government does have interest in these waters regarding interstate commerce and navigation, pollution control, and water resources.

"The absence of suits to quiet title and other forms of litigation, and the absence of a strong State policy concerning the tidelands, causes the law in this area to be tentative, ill-defined, and vague" (SCORP Vol. 13, 1971). The OSP seeks to clear the ownership of these lands, to establish a clear control by the State, and to open their use to unrestricted public access.

# B. A Definition of the Term "Beach" and an Identification of Public Areas Meeting that Definition

Beaches are sandy shoreline areas characterized by low relief, generally of gentle slope, and some vegetation. The beach extends from the waterline to 1) a change in physiographic form such as a dune or bluff, 2) a change in sediment type, such as clay from sand, and/or 3) a change in vegetation type.

Gulf beaches are those sand beaches of the mainland and islands in Alabama which are subjected to the direct wave action of the Gulf of Mexico. The upper limit of Gulf beaches is usually a transition from halophytic, succulent, prostrate plant forms such as Hydrocotyl bonariensis (pennywort) Cakile epentula (sea rocket), Iva imbricata (no common name), and Ipomoea stolonifera6s (seaside morning glory) to a zone occupied by grasses, shrubs, and the same prostrate forms mentioned above. Some grasses indicative of this transition are Uniola paniculata (sea oats), Spartina patens (saltmeadow cordgrass), Panicum amarulum (dune panicgrass), and Distichlis spicata (saltgrass). Shrubs found at this transition are Solidago pauciflosculosa (seaside goldenrod), Ceratiola ericoides (seaside rosemary), Ilex vomiaria (yaupon), Quercus virginica var. maritima live oak), and Myrica cerifera (waxmyrtle).

Estuarine beaches are narrow, low energy beaches occurring along the protected margins of Mobile Bay, Perdido Bay, Mississippi Sound, and their various tributaries. The upper limit of estuarine beaches in Alabama can be distinguished easily by any or all of the three boundaries mentioned previously, that is:

- 1) a change in physiographic form,
- 2) a change in sediment type, or
- 3) a change in vegetation type.

# C. Articulation of Enforceable State Policies Pertaining to Shorefront Access and Protection

The OSP has long recognized the importance of public access to Alabama's beaches for all citizens. Thus, the following policies pertaining to shorefront access have been formulated. The ACAMP operational rules and regulations by which the policies will be implemented are presented in parentheses.

### 1. Coastal Development

The OSP will encourage and support to the maximum extent practicable the continued development of the economic resources of the Coastal Area, including the port, industrial, energy and recreational resources, so that they may continue their full contribution to the economic well-being of all citizens, and development within coastal Alabama will be carried out in a manner which is consistent with the ACAMP policies for natural resources. (Chaptr 4, Section VI, Operational Rules and Regulations for public access).

### 2. Recreation

Public access to and use of existing recreational lands and waters such as beaches, marinas, and fishing grounds, will be safeguarded, and the OSP encourages the development of additional recreational oppportunities to enhance the well-being of Alabama citizens as well as residents of other states. (Chapter 4, Section VI, Operational Rules and Regulations for public access).

#### 3. Beach and Dune Protection

Recognizing the natural value of beaches and dunes for erosion control, wildlife habitat, and recreational opportunities, it is the policy of the ACAMP to maintain the natural integrity of the beach and dune systems and to restore and enhance these valuable resources where feasible. (Chapte 4, Section VI, Operational Rules and Regulations for beaches and dunes).

# D. A Method for Designating Shorefront Areas as Areas of Particular Concern or Areas for Preservation and Restoration

One approach to preserving public access to Alabama's coastal area is the nomination and designation of shorefront areas as Geographic Areas of Particular Concern (GAPC) or Areas for Preservation and Restoration (APRP). None of the GAPC's or APR's presently designated has been established for their public access value. However, a process for designating additional areas as GAPC's

and APR's has been established and is described in Chapter 4, Section IV. One criteria for both GAPC and APR designaion is recreational value or opportunity.

E. An Identification of Legal Authorities, Funding Programs and other Techniques that can be used to Meet Management Needs

Aside from the policies set by the ACAMP and opportunities for provision of public access through designation GAPC's and APR's, various existing legal authorities and funding programs are available to meet the ACAMP's management needs with respect to public access.

#### 1. State Statutes

Statutes within the <u>Code of Alabama, 1975</u> which directly contribute to the provisions of visual and physical public access include:

a) Title 9 Chapter 7 of the Alabama Code (as amended by Act 82-612) creates a reconstituted ACAMP with responsibility and authority for developing, coordinating and maintaining a coastal area program for the area in direct proximity to the coasts of Alabama to insure the enhancement of tourism and orderly economic development along coasts; and to provide for the promulgation of regulations and provisions for the enforcement of this act.

One provision of this act states that when necessary to achieve conformance with the management program provided for in the Act, the Alaama Office of State Planning and Federal Programs (OSP) shall have the power to acquire fee simple and less than fee simple interest in land, water and other property under the procedures of Title 19, Code of Alabama, or other means, so long that such power shall not apply to property and interest therein which is devoted to public use. This power vested in the OSP will enable the acquisition or interest in lands for public access purpose, provided this conforms with the management program.

b) Section 9-14-1 through 9-14-29. Department of Conservation and Natural Resources - State Park System

The State Park System is defined to be comprised of existing and after-acquired parks, monuments and historical sites, and parkways.

The statute provides the authority by which sites designated by the ACAMP to have particular scenic, historic, archaeological, scientific or aesthetic value may be preserved and maintained. The Department of Conservation and Natural Resources is specifically authorized to accept lands for inclusion within the State Park System (see Appendix B, Section D-3).

c) Section 9-15-1 through 9-15-33. Department of Conservation and Natural Resources - State Lands Division.

Authority over state owned lands for their utilization and management in accordance with the Management Program is provided. Control is assured over the coastal lands and beaches from coastal waters up to the mean high tide boundary, if effectively implemented. The legal authority to manage and preserve this "unused" land will provide public access if effectively implemented (See Appendix B. Section D-4).

d) Sections 23-1-1 through 23-1-228. State Highway Department On the authority of the "Highway Beautification Act: the State Highway Director is "authorized to acquire land necessary for the restoration, preservation and enhancement of scenic beauty and the establishment of rest areas (associated with state highway)."

By this authority, coastal areas having special aesthetic and scenic qualities may be preserved in accordance with coastal management program objectives (see Appendix B. Section G).

## 2. Federal Programs

Federal programs useful to the provision of visual and physical public access in Alabama include:

- a) Coastal Zone Management Program Administration
  - Authorization: Coastal Zone Management Act of 1972, Section 306, Public Law 92-583; Coastal Zone Management Act Amendments of 1976, Section 306, Public Law 94-370.
  - Administration: National Oceanic and Atmospheric Administration, Department of Commerce. Funds are channeled through the Alabama Coastal Area Board upon approval of the state's Coastal Zone Management Program.
  - Eligibility: Any coastal state whose Coastal Zone Management Program has been approved by the Secretary of Commerce.
  - Types of Assistance: Project grants are available. At least 20 percent of the total project cost must be provided by the applicant. Federal funds from other sources cannot be used to match.
  - Uses and Use Restrictions Applicable to Public Access: Grants may be used only to adminster the State's approved Coastal Zone Management Program. States are encouraged to apply implementation funding for these purposes in which there are national interests including the provision of access to and use of the shorefront and urban waterfronts. Other purposes include the management of designated areas of particular concern.

- b) Outdoor Recreation Acquisition, Development, and Planning
  - Authorization: 16 U.S.C. 1-4 et seq. Land and Water Conservation Fund Act of 1965; Public Law 88-578; 78 Stat. 897; as amended by public Law 90-401 (82 Stat. 354); Public Law 91-485 (84 Stat. 1084); Public Law 91-308 (84 Stat. 410); Public Law 92-347 (86 Stat. 460); Public Law 93-81 (87 Stat. 178); Public Law 94-422 (90 Stat. 1313); and Public Law 95-42 (91 Stat. 210).
  - Administration: Heritage Conservation and Recreation Service, Department of Interior. Funds are channeled through the Alabama Department of Conservation and Natural Resources, Outdoor Recreation Section.
  - Eligibility: For acquisition and development grants, the DCNG Outdoor Recreation Service, may apply for assistance for itself, or on behalf of other state agencies or political subdivisions, such as cities, counties, or park districts. Individuals and private organizations are not eligible.
  - Types of Assistance: Project grants available to 50 per cent of cost. Under certain conditions, all or part of the project sponsor's share may be from certain other Federal assistance programs, such as Title I Community Development. Funds are available for obligation during the fiscal year in which appropriated and for the following fiscal years.
  - Uses and Use Restrictions Applicable to Public Access:
    Acquisition and development grants may be used for a wide
    range of outdoor recreation projects and support facilities
    for these same projects. Facilities must be open to the
    general public. Development of basic rather than elaborate
    facilities is favored. Priority consideration generally is
    given to projects serving urban populations.
- Economic Development Grants and Loans for Public Works and Development Facilities
  - Authorization: Public Works and Economic Development Act of 1965; Public Law 89-136, as amended; 42 U.S.C. 3131, 3132, 3135, 3141, 3171.
  - Administration: Economic Development Administration,
     Department of Commerce.
  - Eligibility: States, local subdivisions thereof, and private or public nonprofit organizations or associations representing a redevelopment area are eligible to receive grants and loans. Corporations and associations organized for profit are not eligible.
  - Types of Assistance: Project Grants and Direct Loans. The basic grant rate may be up to 50 per cent of the project

- cost. Severely depressed areas that cannot match Federal funds may receive supplementary grants to bring the Federal contribution up to 80 per cent of the project cost. Additionally, redevelopment areas located within designated economic development districts may, subject to the 80 per cent maximum Federal grant limit, be eligible for a 10 per cent bonus on grants for public works projects. Long term (up to 40 years) low interest loans may be made to the applicant when financial assistance is not otherwise available from private lenders or Federal agencies on terms which would permit accomplishment of the project.
- Uses and Use Restrictions Applicable to Public Access: Grants for public tourism facilities are available. To qualify, these projects must fulfill a pressing need of the area and must: 1) tend to improve the opportunities for the successful establishment or expansion of industrial or commercial plants or facilities, 2) assist in the creation of additional long-term employment opportunities, or 3) benefit the long-term employment opportunities, or 3) benefit the long-term unemployed and members of low-income familities or otherwise substantially further the objectives of the Economic Opportunity Act of 1964. In addition, proposed projects must be consistent with the currently approved overall economic development program for the area in which it is located.
- d) Public Land for Recreation, Public Purposes and Historic Monuments
  - Authorization: Recreation and Public Purposes Act of June 14, 1926, as amended; 43 U.S.C. 869; 869-4, as amended by 90 Stat. 2759-60.
  - Administration: Bureau of Land Management, Department of the Interior.
  - Eligibility: States, Federal and State instrumentalities and political subdivisions, including counties and municipalities, and nonprofit corporations. Individuals do not qualify.
  - Types of Assistance: The sales, exchange, or donation of property and goods is available. For public recreation purposes, a price of \$2.50 per acre with a minimum of \$50 per transaction, lease at \$0.25 per acre per year with minimum payment of \$10 per lease.
  - Uses and Use Restrictions Applicable to Public Access:
    Available public lands may be leased or purchased for public recreation and other recreational and public purposes. The applicant cannot secure lands under this act for any use authorized under any other public land law. If applicant attempts to change the use of land to other than that for which land is conveyed, or transfer title without consent of

the Secretary of the Interior, title of land will revert to the United States.

## e) Disposal of Federal Surplus Real Property

- Authorization: Section 203 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 385, as amended, 40 U.S.C. 484; Section 13 (g) of the Surplus Property Act of 1944, as amended 50 U.S.C. App. 1622 (g); Public Law 80-537, 62 Stat. 240, as amended, 16 U.S.C. 667 b-d; Section 414 of Public Law 91-152, 83 Stat. 400, as amended, 40 U.S.C. 484b; and Section 218 of Public Law 91-646, 84 Stat. 1902, 42 U.S.C. 4638.
- Administration: General Services Administration;
   applications are made to the Heritage Conservation and Recreation Service, Department of the Interior.
- Eligibility: States and local government agencies are eligible to apply for surplus real property for park, recreational, ..., and general public purposes.
- Types of Assistance: The sale, exchange, or donation of property and goods is available.
- Uses and Use Restrictions Applicable to Public Access:
  Surplus real property may be conveyed for public park or
  recreation use at discounts up to 100 per cent. Surplus
  property conveyed for public park or recreation use must be
  used for the purposes so conveyed in perpetuity. Surplus
  real property which is not deeded to public bodies is
  generally offered for sale to the public on a competitive bid
  basis.

#### 3. Other Means to Provide Access

Other states and political subdivisions have used various means to provide access to beaches. These means include a) the acquisition of fee simple and less than fee simple interest in land, water and other property, b) the acquisition in fee by gift, c) the legal determination of public rights of access, d) police power, e) preferential taxation, and f) passage of legislation providing access. The Coastal Area Board may find some of these means useful in providing more public access, especially with respect to their five established priorities discussed earlier.

a) Land for public access purposes can be obtained through the acquisition of fee simple or less than fee simple interest. The DEM and OSPFP are given the power to acquire fee simple and less than fee simple interest in land, ater and other property under the procedures of Title 19, Code of Alabama or other means. This power is provided in \$9-7-14.

Purchase of fee simple title involves the purchase of property by the state. This is the most direct means of acquiring access, however, because the state competes with other buyers for properties on the open market, this option can be the most expensive acquisition tool. Purchase of fee simple title is efficient only where intensive use is anticipated and ownership would serve some useful public purpose.

Less than fee simple interest involves the granting by the property owner of a limited right or set of rights to a second party. Easements, one form of less than fee simple interest, are generally purchased in circumstances in which it is unnecessary and unfeasible to purchase the land itself. Affirmative easements are rights to use land, negative easements preclude a use of land.

A conservation easement is a method by which a landowner can secure both present enjoyment of his land and future limitations on the land's use. The owner retains title; the easement precludes certain uses of the land. Future owners must take title subject to the terms of the easement.

Leasehold agreements, a common form of less than fee simple ownership a lesser (owner of land) grants a lessee (interested party) the right to use the land in a specified manner for a limited period of time. At the time of lease expiration, the restricted rights revert to the lesser.

- b) Acquisition in fee by gift of land for public purposes is a highly desirable method of conveying property. Donation hold advantages for the donor especially with regard to tax savings, and is a relatively simple process which gives the state a measure of freedom to vary the uses of the property as it sees fit. The landowner can include use restrictions in the deed of transfer to ensure the land will be used according to the donor's wishes, however, the receiving government must accept the conditions attached to the grant.
- c) There are many theories supporting the creation of public access rights over private land of non-consenting landowners.

Prescriptive easements refer to a process by which one person obtains the right to use another's land in a specified manner because of continued adverse and notorious use of this land for a considerable number of years. The original landholder maintains title, however, law now recognizes a new party's right to continue that use.

Adverse prescription and possession are legal doctrines which recognize that rights to land may be obtained through use and may be applied to maintain public access. For these rights to apply, use of property in question must be actual, adverse, continuous and uninterrupted, and either be so open, notorious, and visible, that knowledge of the use is implied to the owner.

In adverse possession, the claimant must be in possession of land, while under prescription, the claimant may have the use or privilege without possession.

Implied dedication is a common law doctrine in which the landowner by his conduct has indicated his intent to dedicate his land for public use, and that public use itself is evidence of the public's intention to accept the dedication offered. The public acquires the right to continue the use of such property, regardless of the land- owner's later intent or actions.

The customary use doctrine establishes that customary use of land peaceably engaged, with or without landowner consent, for a long period of time without a claim of superior right interrupting such use, establishes public rights to that land irregardless of title. Securing beach access through the customary use doctine, while requiring no capital outlay, would require lengthy court procedures and a documented history of public use.

d) A fourth means of acquiring public access is through police power. The two most useful police power techniques are the application of emminent domain and the imposition of land use controls and regulations.

Emminent domain is a process by which governmental entities can acquire proprietary interests in privately held land in exchange for compensation, regardless of the owner's willingness to sell. Compensation is usually fixed at market price. Land acquired through this process must be used for public use or benefit.

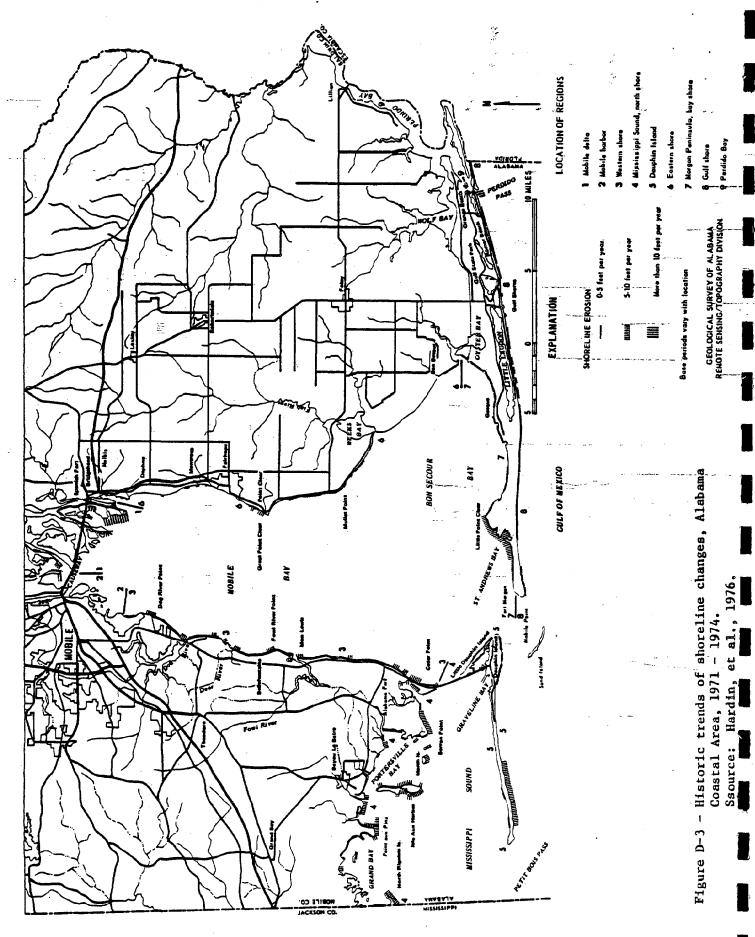
In acquiring shorelands and waters access with emminent domain, property can be condemned in fee, thereby acquiring land such as parking lots and parks. A second and less expensive application of emminent domain is to condemn easements for public rights-of-way.

A variety of land use and regulatory controls may be applied to secure and protect public access. Of course, for these regulations to be implemented, enabling legislation must be in place.

Zoning is a widely applied regulatory mechanism to manage development activities. Aside from preventing non-conforming uses, zoning has now become a means of creating recreation and open space zones.

Subdivision developers have been subject to a number of conditions for approval. These conditions might include the dedication of land for streets and utilities, and even the dedication of land for parks. Further, water access lots might be required as a condition for approval.

Other examples of land use control and its application to public access include the provision of pedestrian accessways through or



between privately owned land and the dedication of roads to the public and their extension to the beach.

- e) Preferential taxation is a process which can be applied to public access acquisition. A shoreland owner can be encouraged to maintain his property in low density development. Taxation is based on current use rather than assessment of potential. Postponement of taxes or deferral is another technique which can aid in providing public access, as can tax breaks as an incentive for land donation, discussed
- f) A sixth approach to providing public access involves the statutory establishment of public rights to beach utilization and access. The Texas Open Beaches Act (Tex. Stat. Ann. Sec. 5415 (d) (Vernon Supp. 1972)) in effect since 1959, is a model for future legislation regarding public access. Two presumptions are made in the Act which provide the public access: 1) "the State (of Texas) nevber divested itself of its protection of the people's right to use the beach by the grant in the beginning, and 2) that even if it did, in certain instances, and it can be shown, there is a presumption that the people have obtained a prescriptive right in the use of the beach by long usage." (Eckhardt, 1974)

The designation of a public zone and recognition of public rights is the necessary basis for a legislatively initiated access development program.

### II. SHORELINE EROSION/MITIGATION PLANNING

## A. A Method for Assessing the Effects of Shoreline Erosion

Recent studies have shown that portions of Alabama's coastal shoreline are eroding. Of 503.9 miles of estuarine and Gulf shoreline, 220.9 miles are eroding. These eroding areas and rates of erosion are identified and mapped by the Geological Survey of Alabama in a report prepared for the Alabama Coastal Area Board (1976), and by the U. S. Army Corps of Engineers in their National Shoreline Inventory 91971).

Ninety-four per cent of the State's Gulf shoreline is eroding (see Figure D-3). Though erosion rates along the Gulf are generally less than 5 feet per year, erosion greater than 10 feet per year takes place at Perdido Pass. Western Dauphin Island's shoreline has receded due to heavey erosion.

About thirty-three per cent of Alabama's estuarine shoreline is also eroding. Most affected areas are the Little Point Clear and St. Andrews Bay shoreline, the southeastern limits of the Mobile-Tensaw River Delta, and the islands and northern shore of Mississippi Sound (see Figure D-3).

These comprehensive inventories have aided the Coastal Area Board in identifying shoreline segments most erosion prone. As the need arises, inventores can be updated. Also, erosion prone areas will be identified and/or verified by visual inspection.

## 1. Inventory of Alabama's Coastal Erosion Problem

## a. <u>Dauphin Island</u>

Dauphin Islands's Gulf shoreline has experienced considerable erosion. In the period 1942 to 1974, shoreline erosion of the entire Gulf coast of the island averaged 6.34 feet per year. Erosion at the western end of the island has averaged 10.13 feet per year in the period 1917 to 1974 and erosion occurring along the eastern shoreline is less than 5 feet annually. The eastern tip of the island has been protected from erosion by small jetties and a rock seawall. The western end of the island, has extended itself westward approximately 1.8 miles. The island has been breached by coastal stormwaters twice since 1900, but coastal development is occurring near these formerly breached areas today (from Geological Survey of Alabama, 1976).

The Corps of Engineers is considering a breach renourishment program for the island. Maintenance dredge spoil from the outer Mobile Ship Channel can be pumped into the littoral drift circulation pattern which sweeps past the island, supplying sediments to build the beaches.

## b. Mississippi Sound

The northern shore of Mississippi Sound is comprised mostly of marsh with extensive residential, commercial, and industrial development centered in the major tidal bayous. Coden, Bayou La Batre and West Fowl River. Between 1917 and 1958, most of the shoreline length of Mississippi Sound has experienced erosion. The areas most prone to erosion are the exposed marshy headlands and island shorelines. It is estimated that shoreline erosion at these locations averges 3 to 7 feet per year (from Geological Survey of Alabama, 1976).

## c. Mobile Bay - western shore

The western shore of Mobile Bay consists of a narrow sandy or marshy shoreline, backed mostly by low eroding seacliffs above Alabama Port. Erosion is a persistent problem, as is evidenced by numerous toppled trees, threatened structures, and privately constructed erosion control measures. Rates of erosion average less than 5 feet annually in most areas. However, Cedar Point has eroded 488 feet during the period 1917-1974. The areas between Dog River Point and Fowl River Point and between Delchamps Bayou and Cedar Point show the severest erosion rates (from Geo-logical Survey of Alabama, 1976).

The U. S. Army Corps of Engineers, Mobile District has centered its attention on this area in its nearly completed Mobile County Beach Erosion Control and Hurricane Protection Study. Structural alternatives do not appear feasible due to high costs which must be borne locally due to the private ownership of this land. Other alternatives included a proposal to extend the Bay shoreline with dredge spoil derived from the maintenenace dredging of the Mobile Ship Channel. Land owners were opposed to this and other alternatives

proposed by the Corps to control shoreline erosion along the western shore of Mobile Bay because of 1) high costs of the project, 2) the requirement that restored land must be dedicated to public use, and 3) the malodor, texture, and unimprovable nature of dredged materials used to restore the shoreline. A public workshop was held on this subject in March. 1975.

## d. Mobile Delta

The shoreline of Mobile Delta has shown a small net erosion trend. Erosion has occurred principally along the channel margins of the major rivers, and accretion is occurring in the shallow interdistributary bays for the period 1917 through 1967. Deltas are typically areas of accretion; the fact that the delta has lost 22.04 acres in the period 1917 to 1967 may indicate that the delta's progradation has slowed considerably (from Geological Survey of Alabama, 1976).

## e. Mobile Bay - eastern shore

The eastern shore of Mobile Bay has for the most part maintained a state of equilibrium or has undergone accretion. Erosion does occur sporadically, however, with areas erosion prone including the shore north of Great Point Clear, Red Bluff, Seacliff, and several areas along the lower bay shoreline. The aforementioned areas experience 0-5 feet erosion per year excepting the shore north of Great Point Clear which averaged 5.0 feet per year during the period 1917-1956 (from Geological Survey of Alabama, 1976).

## f. Fort Morgan Peninsula - Bay snore

Erosion along this low shoreline extending from the mouth of the Bon Secour River to Mobile Point has been measured with rates exceeding 10 feet per year in the Little Point Clear - St. Andrews Bay shoreline. During the period 1917 to 1974, 170 feet of erosion has occurred in the section of coast lying between Bon Secour River and Catlins Bayou, 50-100 feet between Catlins Bayou and Three Rivers, 200-800 feet from Little Point Clear to St. Andrews Bay, and 200 feet from navy Cove to Fort Morgan. Residents of the shore from Seymour Bluff to Catlins Bayou have battled this per sistent erosion problem by individually constructing bulkheads, groins, and filling (from Geological Survey of Alabama, 1976).

## g. Gulf Shores - Ft. Morgan to Florida border

During the study period 1917-1974, the gulf shore eroded an averge of 78 feet between Fort Morgan and Alabama Point. Nearly the entire stretch of coast has eroded. Inlets into the Little lagoon - Shelby Lakes complex have opened and closed during this period. Exchange between these lakes and Gulf is today only minimal, the only existing inlet does not function at all times of the year (from Geological Survey of alabama, 1976). At Perdido Pass, a Corps of Engineers jetty and sand bypass system has been constructed. Though constructed for navigation purposes, this project has nelped to

alleviate a persistent erosion problem at this location. Erosion occurring at the pass today impacts a beach restored by sand pumped across the navigation channel.

## n. Perdido Bay

The Alabama shores of Perdido Bay have shown little measurable change, according to presently available information. Perdido Pass has changed considerably since the late nineteenth century, partially due to the cutting of a man-made channel across the Ono Peninsula. Today, all water exchange with the Gulf occurs through Perdido Pass, whose westward shore is stabilized by a connecting seawall and jetty (from Geological Survey of Alabama. 1976).

## i. Sand Island

Lying southward of Dauphin Island and the western tip of Mobile Point are a series of low emergent and submergent bars related to tidal flow through the mouth of Mobile Bay. Among these are Dixie Shoals and San/Pelican Island. Sand Island Lighthouse presently lies near this bar complex and is heavily protected by riprap and protective structures. As has occurred through out historic times, Sand and Pelican Islands have migrated extensively, presently leaving Sand Island Lighthouse surrounded by water.

#### Stabilization Alternatives

Various types of structural and non-structural shore protection measures have historically been designed and implemented along both estuarine and ocean or Gulf shorelines. The threat which erosion places on coastal development has in the past warranted these protective measures be taken. Fortunately, Alabama's low density of Gulf-front development has not required many protective measures be taken, however, the rate of both development and erosion along Alabama's estuarine shoreline has forced the use of numerous structures.

## a. Structural Control Methods

"Where beaches and dunes serve to protect the shore developments, additional protective structures may not be required" (U.S. Army Corps of Engineers, 1971). Where development does encroach on the coastal shoreline, however, a variety of structural erosion control methods have been utilized. These methods include bulk heads, seawalls, revetments, breakwaters, groins, and jetties.

Bulkheads, seawalls, and revetments are barriers constructed to protect backshore development from wave damage. These become partial substitutes for the natural protection afforded by lost or destroyed beaches, dunes, wetlands, and submerged grassbeds. Bulkheads are vertical structures of steel, timber, or concrete. In high energy locations, bulkheads do not provide a permanent solution. As the shore continues to recede, a more substantial wall will be required.

Seawalls are also vertical structures constructed as barriers to protect against wave uprush. Seawalls are not conducive to the accumulation of sand, will probably contribute to the erosion of shoreline sediments, and may still not adequately protect the upland surface.

Revetments are sloping reinforced walls, usually of concrete or stone. a revetment dissipates wave energy with less damaging effect on the beach, dune or bluff. If conditions are favorable, sand will accumulate at its base.

Coastal shorelines can also be protected by breakwaters. A detrimental effect of these structures is the stoppage of literally transported sediments. In effect, the lee side of breakwaters stops littoral transport, obstructs the flow of sand and therefore starves downstream beaches of needed sediments.

Groins are structures constructed of timber, steel, concrete or rock, and extend perpendicular to the shoreline. The basic purpose of a groin is to intercept sand moving alongshore, thereby building up a beach with added sediments or to slow the rate of erosion. The groin system should be designed so that it will trap the required volume of beach material and bypass sufficient material to nourish downdrift beaches. Although a groin system may reduce erosion or cause accretion on a stretch of beach it will generally result in increased erosion for downdrift property.

Jetties, a sixth shoreline protection device, are usually massive structures, constructed of steel, concrete, or rock, employed at tidal inlets to trap sediments and thereby keep the inlet clear for navigation. Undesirable downdrift erosion usually results from the emplacement of these structures, so some plan of sand bypass or transport to the downdrift shore is required.

It can be seen that a number of structural alternatives are available to protect coastal Alabama"s receding shoreline. The exorbitant cost of each structural alternative (Table D-1), frequent inability of each alternative to adequately solve the erosion problem, and the possible serious adverse effects experienced by adjacent property owners warrant exhaustive consideration before undertaking placement of structural erosion control measures.

Table D-1 Comparative costs of structural erosion control methods

		Average Cost	Average Maximum Cost
		(1971) Per Foot	(1971) Per Foot of
		of Shoreline	Shoreline
Control Struc	ture	Protected	Protected
Bulkheads		\$75 to \$150	\$400
Seawalls		\$200	\$500
Stepped Seawa	11	\$255	
Revetments		<b>\$</b> 75 <b>to</b> \$150	\$400
Riprap Revetm Interlocking		\$265	
Block Revet		\$422	
Groins		\$100 to \$350	
Source: U.S.	Army Corps of	Engineers, 1971	
U.S.	Army Corps of	Engineers, 1975	

## b. Nonstructural Control Methods

Often, natural shoreline processes and configuration can be restored through non-structural shoreline control techniques. "Beach structures, when properly used, have a place in shore protection. But research has shownthat the best protection is afforded by using methods as similar as possible to natural ones" (U.S. Army Corps of Engineers, 1971). The desired end result in any erosion control project is shoreline stabilization; non-structural techniques are designed to accomplish this goal without the emplacement of any near-permanent fixed structure, and are more reliant on naturally occurring processes. Three non-structural shoreline erosion control techniques lend themselves well to application along Alabama's estuarine and Gulf shoreline.

Shoreline restoration and nourishment involves the deposit of sediments on an eroded beach through some form of unnatural transfer process such as the deposit of dredged material or the trucking in of sediments. Often, sediments to be used are dredged from a navigation channel, baybottom, or offshore, and are pumped to the disposal site to recreate the original shoreline. Drawbacks to this process include the malodor and discoloration of sediments due to their removal from waterbottoms, the destruction of bottom habitat and loss of animal life caught in dredging operations.

A variation of this technique is the placement of sediments (usually dredged material) at locations that littoral drift and shore currents can distribute naturally to the shoreline. This alternative is under the Corps of Engineers consideration for restoration of Dauphin Island's eroding eastern shoreline.

A second nonstructural erosion control technique is the protection, restoration, and revegetation of wetland and submerged vegetation. Vegetation, wether wetland or submerged, buffers the existing shoreline from destructive waves and their erosive forces. Further, wetlands serve as storage areas for floodwaters and as a source of sediment to supply and replenish neighboring beaches and shorelines.

The protection of beaches and dunes from destructive development is a third non-structural approach to control shoreline erosion. Not only do the beach and dune absorb much of a coastal storm's energy, they provide sediments to one another as the system stabilizes itself in response to coastal energy conditions. Since the beach and dune interact with one another in this manner, the removal or destruction of either, or the interruption of natural sediment flow between the components, will eventually create a shoreline erosion problem. Removal of either beach or dune material should never be undertaken. Restoration or revegetation of dunes where alteration has occurred is essential to a stable shoreline.

# B. Articulation of State Policies Pertaining to Erosion, Including Policies Regarding Preferences for Non-Structural, Structural and/or No Controls

Due to the influence of certain uses, resources and structures on snoreline erosion control, the Coastal Area Board recognizes the need for their management. Thus, the following policies pertaining to snorefront access have been formulated. The Alabama Coastal Area Management Programs' (ACAMPs) operational rules and regulations by which the policies will be implemented are presented in parentheses.

### 1. Shoreline Erosion

It is the policy of the ACAMP that the existing natural or man-made character of coastal shorelines shall be maintained in a manner to prevent the erosion of the Alabama coastline with primary emphasis on non-structural forms of erosion control, and where feasible, enhancement of the natural protective functions of the shoreline shall be encouraged. (Chapter 4, Section VI, Operational Rules and Regulations for shoreline erosion).

## Hazard Management

Human activities within hazard management areas including flood and hurricane prone areas will be carried out in a manner which sustains the area's natural capability of absorbing the effects of flood and nurricane events, and development within these areas shall be designed, located, and constructed in a way that minimizes the possibility of property damage and human suffering resulting from hazard events. (Chapter 4, Section VII, Operational Rules and Regulations for natural hazard).

## 3. Wetlands and Submersed Grassbeds

The quality and quantity of coastal wetlands and grassbeds shall be maintained at the level necessary to provide for present levels of habitat for both terrestrial and aquatic life to play their pivotal role in the aquatic food web and to provide natural control for shoreline erosion and where practicable, to enhance the quality and quantity of these wetlands and submersed grassbeds. (Chapter 4, Section VI, Operational Rules and Regulations for wetlands and submersed grassbeds).

## 4. Beach and Dune Protection

Recognizing the natural value of beaches and dunes for erosion control, wildlife habitat, and recreational opportunities, it is the policy of the ACAMP to maintain the natural integrity of the beach and dune systems and to restore and enhance these valuable resources where feasible. (Chapter 4, Section VI, Operational Rules and Regulations for beaches and dunes).

# C. A Method for Designating Areas for Erosion Control, Mitigation, and/or Restoration as Areas of Particular Concern or Areas for Preservation and Restoration

One approach to managing shoreline erosion in Alabama's coastal area is the nomination and designation of shorefront areas as Geographic Areas of Particular Concern (GAPC) or Areas for Preservation and Restoration (APR). None of the GAPC's or APR's presently designated has been established for the particular control of shoreline erosion. However, a process for designating additional areas as GAPC's and APR's has been established and is described in Chapter 4, Section IV. One criteria which can be used to designate an area as a GAPC is vulnerability to erosion.

## D. Procedures for Managing the Effects of Erosion, Including Non-structural Procedures

The ACAMAs ecognizes the pressing need for shoreline erosion management in Alabama's coastal area. Portions of our shoreline today are threatened by erosion and the increased rae of development descending upon the state's shorelines could make this problem more critical. Historically, the U.S. Army Corps of Engineers has been the lead agency in this matter, however, economic and property ownership conditions have nearly precluded the Corps' assistance in any role other than advisory.

The OSP and DEM have promulgated policies and rules and regulations to manage uses with a direct and significant impact, including those uses which lead to shoreline erosiion. The implementation of these policies and rules and regulations through the DEM's review process and monitoring and enforcement provisions will enable effective management of shoreline erosion.

The ACAMP stipulates certain action items related to their goal of shoreline erosion control. The OSP and DEM will provide technical and financial assistance for special studies to assess the suitability of certain types of erosion control measures in specific areas; to educate the public regarding erosion-related matters; and to investigate methods to acquire specific areas within the Coastal Area that are subject to significant erosion.

## E. An Identification of Legal Authorities, Funding Programs and other Techniques that can be Used to Meet Management Needs

Aside from the policies specified in the ACAMP and opportunities for the management of shoreline erosion through the designatio of select GAPC's various existing legal authorities and programs are available to meet the ACAMP's management needs with respect to shoreline erosion.

## 1. State Statutes

Statutes within the Code of Alabama, 1975 which directly contribute to the management of shoreline erosion include:

a) §9-7-1 through 22 Alabama Coastal Area Management as amended by Act 82-612 legislation

Act 82-612 creates a reconstituted ACAMP with responsibility and authority for developing, coordinating, and maintaining a coastal area program for the area in direct proximity to the coasts of Alabama to insure the enhancement of tourism and orderly economic development along coasts; and to provide for the promulgation of regulations and provisions for the enforcement of this Act.

The legislature finds in the Act that it is State policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the State's coastal area for this and succeeding generations. Given the authority to develop a management program and given the above state policy to guide the development and implementation of the program, the ACAMAS have the authority within this program to manage Alabama's coastal shoreline, in its many forms such as beaches, dunes and wetlands, to mitigate the effects of shoreline erosion.

b) Section 9-15-1 through 9-15-53. Department of Conservation and Natural Resources - State Lands Division.

Authority over state owned lands for their utilization and management in accordance with the Management Program is provided. Control is assured over the coastal lands and beaches from coastal waters up to the mean high tide boundary, if effectively implemented. The legal authority to manage this land may facilitate the implementation of shoreline erosion control methods. (see Appendix B, Section D-4).

C) Section 9-13-1 through 9-13-201. State Forestry Commission The Commission has statutory authority to prevent the willful destruction or injury of any plant by any method without consent of the owner. If effectively implemented, this provision serves as a primary authority for the preservation of vegetation in the coastal area, including an indispensable tool for dunes preservation by methods utilizing vegetation. (see Appendix B, Section E1)

## 2. State Acts

Within the Acts of Alabama, 1973 are three Acts which directly contribute to shoreline erosion control. These include:

a) Act No. 971. Wild Sea Oats Act - Baldwin County

The provisions of the Act make it a misdeameanor to pick wild Sea Oats on the beaches of Baldwin County. The statute, if effectively implemented, will provide assistance in dune preservation and mitigation of shoreline erosion. (see Appendix B, Section Y)

b) Act No. 775. Sand Dune Protection Act - Baldwin County

The statute prohibits the operation of any motor vehicle upon coastal sand dunes located 50 feet or further from the waterline within Baldwin County without the express written permission of the landwoner. This statute represents a dune preservation measure if effectively implemented. (see Appendix B, Section Z)

c) Act No. 1096. Island Beaches and Dunes Preservation Act - Mobile County.

This statute prohibits the operation of any motor vehicle upon the coastal beaches and/or sand dunes "located on any island within ... (Mobile County) upon any ... (Recorded) subdivided portion thereof without the express written permission of the landowner and all adjacent landowners." This authority will protect coastal dunes from the impacts of motorized vehicle operation in Mobile County. (see Appendix B, Section AA)

### 3. Constitution of Alabama, 1901

The Constitution of Alabama, 1901, in Amendment No. 15 provides that the:

"Legislature may form or provide for the formation of districts for establishing and maintaining a drainage system; ... and for building and maintaining a seawall or other protection against waves, storm or flood therein."

## 4. Federal Programs

Federal programs useful to the control of Alabama's shoreline erosion include:

- a) Coastal Zone Management Program Administration
  - Authorization: Coastal Zone Management Act of 1972, Section 306, Public Law 92-583; Coastal Zone Management Act Amendments of 1976, Section 306, Public Law 94-370.
  - Administration: National Oceanic and Atmospheric Aministration, Department of Commerce. Funds are channeled through the OSP upon approval of the state's Coastal Zone Management Program revision.
  - Eligibility: Any coastal state whose Coastal Zone Management Program has been approved by the Secretary of Commerce.
  - Types of Assistance: Project grants are available. At least 20 per cent of the total project cost must be provided by the applicant. Federal funds from other sources cannot be used to match.
  - Uses and Use Restrictions Applicable to Shoreline Erosion Control: Grants may be only to administer the State's approved Coastal Zone Management Program. Purposes to which states are encouraged to apply implementation funding include those that resolve coastal problems and issues in which there are national interests, including reduction of losses due to coastal hazards and protection of natural resources. Other purposes include the management of designated areas of particular concern.
- b) Beach Erosion Control Projects (Small Beach Erosion Control Projects)
  - Authorization: Section 103 of 1962 River and Harbor Act, as amended: Public Law 87-874; 33 U.S.C. 426g.
  - Administration: Office of the Chief of Engineers, Department of Army, Department of Defense.
  - Eligibility: States, political subdivisions of states or other responsible local agencies established under state law with full authority and ability to undertake necessary legal and financial responsiblities.
  - Types of Assistance: The Corps of Engineers provides specialized services, including design and construction. The determination of local cost is based on the public use and ownership of the beach protected. The Federal participation cannot exceed \$1 million or 70 per cent of project cost whichever is lower.

- Uses and Use Restrictions Related to Shoreline Erosion Control: Each project selected must be engineeringly feasible, complete within itself, and economically justified. The non-Federal sponsoring agency must agree to 1) assume full responsibility for all project costs in excess of the Federal cost limit of \$1 million; 2) provide all necessary lands, easements, rights of way; 3) hold and save the United States free from damages; 4) assure that water pollution that would affect the health of bathers will not be permitted; 5) assure continued public ownershap or public use of the beach, and its administration for public use; 6) provide project maintenance; 7) provide and maintain necessary access roads, parking areas and other public use facilities open and available to all on equal terms.
- c) Flood Control Works and Federally Authorized Coastal Protection Works, Rehabilitation (Public Law 99 Program)
  - Authorization: Public Law 84-99, Flood Control Act of 1941: Public Law 77-228; as amended by Public Laws 87-874, 93-251, and 95-51.
  - Administration: Office of the Chief of Engineers, Department of the Army, Department of Defense.
  - Eligibility: Owners of damaged protective works, or state and local officials of public entities responsible for their maintenance, repair and operations.
  - Types of Assistance: The Corps of Engineers provides specialized services including restoration of federally authorized coastal protection strutures damaged by extraordinary wind, wave, or water action. Assistance does not extend to major improvements or betterment of flood control or federally authorized coastal protection structures, nor to reimbursement of individuals or communities for funds expended in in repair or rehabilitation efforts. There are no formula or matching considerations.
  - Uses and Use Restrictions Related to Shoreline Erosion Control: Authorized assistance includes the restoration of federally authorized coastal protection structures, damaged by estraordinary wind, wave, or water action. Local interests are normally required to a) provide without cost to the United States; all lands, easements, and right-of-way necessary for the authorized work; b) hold and save the United States free from damages due to the authorized work; c) maintain and operate in a manner satisfactory to the chief of Engineers, all the protective works after completion of repairs. Additionally, work constituting deferred regular maintenance and desired major modifications, may be included at local cost.

## d) Flood Insurance

- Authorization: Housing and Urban Development Act of 1968, Title XIII. Public law 90-448, 82 Stat. 476, 572, as amended; 42 U.S.C. 4011, 4127; 83 Stat. 39, 42 U.S.C. 4056; 83 Stat. 579, 42 U.S.C. 4021, and Flood Disaster Protection Act of 1973, Public Law 93-234.
- Administration: Federal Insurance Administration, Department of Housing and Urban Development.
- Eligibility: Flood insurance can be made available in any community (a State or political subdivision thereof with authority to adopt and enforce flood plain management measures for the area within its jurisdiction) which submits a properly completed application to the FIA. The application must include copies of enacted flood plain management measures consistent with the National Flood Insurance Program regulations.
- Types of Assistance: Insurance
- Uses and Use Restrictions Related to Shoreline Erosion Control: Property owners may buy flood insurance at a chargeable premium rate reflecting a subsidy by the Federal Government. Properties built within identified special flood hazard areas are eligible for flood insurance only at actuarial rates.

A number of provisions are written into the Flood Insurance Rules and Regulations. If effectively implemented, these provisions will be especially useful in the ACAMAs control of coastal erosion.

- 1) The man made alteration of sand dunes within zones VI-30 (coastal high hazard zone) on the community's FIRM which would increase flood damage (24 CFR 1910.3 e8) is prohibited. If effectively implemented, this will maintain the dune's funtion in shoreline erosion control in those areas designated as Coastal High Hazard Zone. Presently, most of Mobile County's coastal area and South Baldwin County is designated in this category.
- 2) For areas delineated Zone E (Area of special related erosion hazards) on a community's FIRM, the community must require a setback for all new development from the ocean, lake, bay, riverfront, or other body of water, to create a safety buffer consisting of natural vegetative or contour strip (24 CFR 1910.5 b2). If effectively implemented, this

buffer zone will allow naturally occurring shoreline sediment supply and distribution processes to continue in those areas so designated. No zones of this type are designated in Alabama's coastal area, however, additional communities will be added as necessary information required for their inclusion becomes available to the Administrator of the Flood Insurance Administration.

3) In these same E zones, the planning process for affected communities should include preventive action including setbacks, shore protection works, relocating structures from the path of flood-related erosion, and community acquisition of flood-related erosion-prone properties for public purposes (24 CFR 1910.24 d).

## III. ENERGY FACILITY SITING

In order to meet requirements of subsection 305(b)(8) of the Coastal Zone Management Act, Alabama has developed a process to anticipate and manage the impacts from energy facilities in or affecting the Coastal Area. The process includes:

- (A) Identification of energy facilities which are likely to locate in or which may significantly affect, the Coastal Area:
- (B) Procedures for assessing the suitability of sites for such facilities:
- (C) Alabama's policies for managing energy facilities and their impacts:
- (D) Identification of how interested and affected public parties may be involved in the planning process and a discussion of the means for continued consideration of the national interest, in the planning for an siting of energy facilities that are necessary to meet more than local requirements, after program approval; and
- (E) Identification of legal authorities and management techniques that will be used to implement state policies and procedures.

### A. ENERGY FACILITIES

Energy in the Mobile-Baldwin County area is primarily derived from petroleum products, natural gas and electricity. Petroleum refineries, natural gas processing, treatment and liquid extraction plants, storage tanks, electric generating plants, coal handling facilities, major transmission lines and pipelines and other energy-related facilities are located almost exclusively in Mobile County. The development and processing of energy resources and the siting of new and existing energy-related facilities is of importance to the coastal economy and is an item of national interest.

### 1. Petroleum Exploration and Extraction

## a. Petroleum Facilities

Over 61% of the oil and gas wells in Alabama are located in the Mobile-Baldwin County area. Since 1945, the Oil and Gas Board has issued about 700 permits to drill in the area, 71% of which were producers. The major petroluem producing areas of the SMSA are the Citronelle and South Carlton Oil Fields, and the major natural gas recovery operations are located in Chunchula and Hatter's Pond Fields (Figure D-4 and Table D-2).

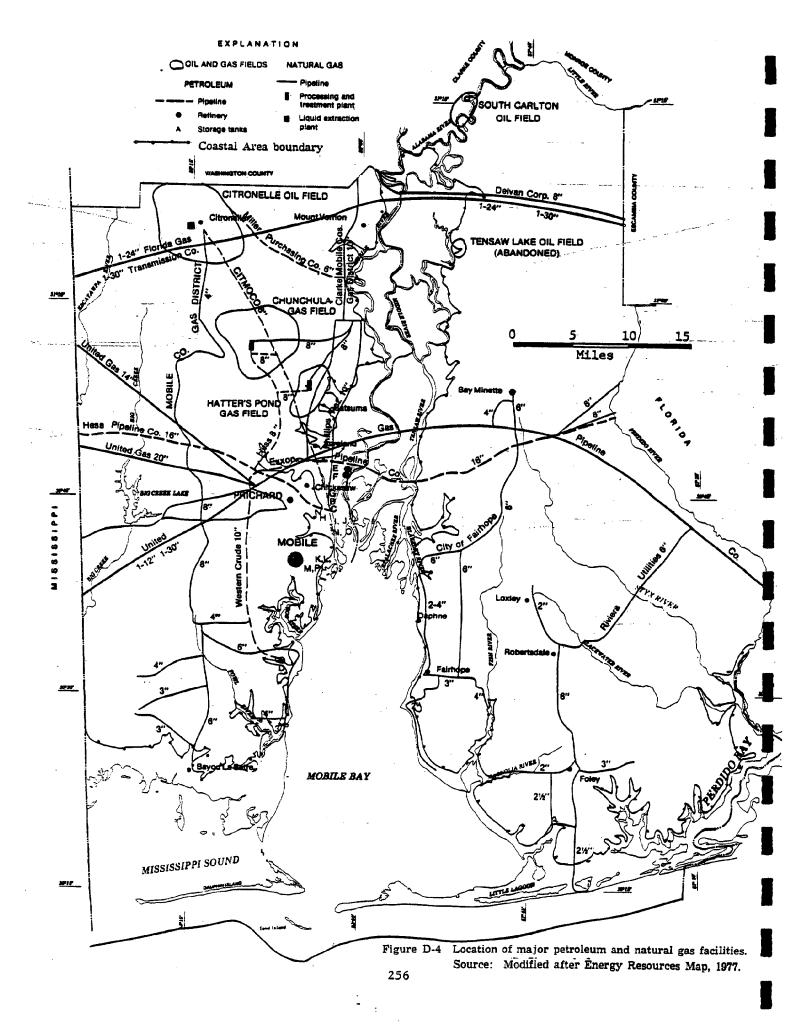


Table D-2 PETROLEUM

Storage of Petroleum and Petroleum Products

Map Ref.	Company	Number of Tanks	Primary capacity (barrels)
			1771 227
A	Miller_Purchasing	2	135,000
В	Citronelle-Mobile Gathering		
	System	4	525,000
C	Amerada Hess	16	1,500,000
D	Marion Oil	18	770,000
E	Louisiana Land and		• •
	Exploration	31	785,000
F	Mobile Bay	6	205,000
G	Gulf Oil	10	176,647
H	Radcliff-Mid Stream Fuel	2	8,000
I	Triangle Refinery	13	230,000
J	Murphy Oil	7	153,000
K	Shell Oil	4	102,000
L	Triangle Refinery of Choctaw	10	120,000
M	Texaco	21	414,000
N	Mobile Bulk Terminal	6	630,000
0	American Oil	6	135,000
P	Belcher of Alabama	7	227,500
	TOTALS	163	6, 116, 147

## Refineries

Map Ref.	Company	Design Capac *(BPD)	eity Production *(BPD)
D	Marion Oil	20,000	20,000
E	Louisiana Land and	ho. 000	211 200
F	Exploration Mobile Bay	40,000 **20,000	34,200 10,000
<u>-</u>		Totals 80,000	64,200

\*Barrel Per Day

\*\*\* Under Construction

#### \_\_\_\_\_\_

## Pipeline System

Company	Length	Average daily throughput
_	(miles)	(barrels)
Hess Pipeline	56	97,425
Exxon Pipeline	36	130,000
Western Crude	26	20,000
•	34	16,500
Miller Purchasing	20 Totals 172	2 <b>,</b> 500
	Totals 172	266,425

Federal oil and gas leases seaward of Alabama's coastal waters will likely have a tremendous impact on the onshore areas of Baldwin and Mobile Counties. As lease sales move to the eastern part of the Gulf of Mexico, onshore support facilities will likely be moved to coastal Alabama. Future drilling in this area and the Mobile Bay will further evaluate the petroleum potential of lands underlying Alabama's coastal waters. With the discovery of oil and gas reserves in offshore and nearshore areas, the production of onshore oil and gas has also increased.

Over 30% of Alabama's annual oil production comes from the Citronelle Oil Field, which has remained the state's leading oil producer since 1955. Approximately 53% of the gas produced in association with oil produced at Citronelle is used in the operation of production facilities throughout the field. Natural gas liquids are extracted from the remaining gas at a plant operated by Cities Service Oil Company in Citonelle (Figure D-4. Table D-3). Natural gas liquids produced in 1977 included 44,937 barrels of gasoline and 58,202 barrels of butane. Engineering studies indicate that at current production rates 39% of the original oil in place in the reservoir, or 146 million barrels of oil, will be produced by 1985, after which time present methods of enhanced recovery will no longer be an effective means of continuing production. Additional studies performed by oil companies operating wells in the field indicate that the life of the field could be extended an additional 25 to 30 years beyond 1985 by initiation of a more sophisticated, enhanced recovery method. This could result in recovery of another 100 million barrels of oil. The majority of oil produced in the Citronelle Oil Field is transported by pipelines to facilities located on the Mobile River where it is stored and ultimately barged to market (Figure D-4 and Table D-2).

The Tensaw Lake Oil Field, discovered in north Baldwin County in 1965, was abandoned in 1972 (figure D-4). Discovery of the field caused excitement because production was essentially water-free and reservoir pressure was capable of driving initial production from the well-bore to surface production facilities. Forecasts following the discovery indicated as many as 50 wells, spaced at 40 acres per well, would be required to efficiently drain the oil reserves. However, further developments proved otherwise as other wells, including two producers, were drilled and production continued. Although an active water drive was present, it was not totally effective in pushing the viscous oil in the reservoir from the well-bore to the surface. Pumping was required to lift the production to the surface to continue producing. The pumping sustained oil production, but it also increased the volume of saline water produced in association with the oil.

The problems of efficiently draining the oil reserves, producing and handling the viscous crude and disposing of produced water caused abandonment of the field in 1972. Cumulative production from the Tensaw Lake Oil Field exceeds 164,000 barrels of oil. Increased prices for domestically produced oil may revitalize an interest in this area in future years.

## Table D-3 NATURAL GAS

## Processing and Treatment

## Design Plant Capacity

Field	Inlet *(MMCF/D) Full Well Stream Gas	Gas *(MMCF/D)	Production Naural gas liquids *(BPD)	
Chunchula	10.0	14.0	4.500	
Hatter's Pond	15.0	9.4	4,526	
	***35.3	20.6	10,320	
Total	.s 60.3	44.0	19,426	
*Million	Cubic Feet/Day		·	

## Extraction

## Design Plant Capacity

	Inlet (MMCF)	Production
Field	Full well stream gas	Natural gas liquids
Citronelle	2	**600
*Hatter's Po	ond3_	2,948
	Totals 5	3,548
	al capacity to be complet	ted in June 1978
**Estimate		

## Pipeline System

Company	Length (miles)	Average daily distribution (MMCF/D)
Untied Gas Pipeline	253	
Utility Sales:		
Mobile Gas Service	1,390	36.6
Mobile County Gas District	315	3.2
City of Fairhope	75	.8
Riviera Utilities	155	.7
Clark-Mobile Cos. Gas Dist	rict 18	6.0
City of Bay Minette	63	2.3
Industry Sales:		
Florida Gas Transmission	49	No sales outlets or pickup
Delvan	50	6.4
Phillips Petroleum	16	8.8
Totals	2,384	93.5

<sup>\*\*</sup>Barrels Per Day

<sup>\*\*\*</sup>Additional capacity completed in June 1978

Although the Chunchula and Hatters fields were discovered in 1973 and 1974, it was not until mid-1976 that production could begin. Following these discoveries, drilling continued at a rapid pace to develop the gas reserves and establish well productivity to determine the design capacity of required plant facilities for each field (Figure D-4, Table D-3). Continued development of gas reserves required the installation of additional plant capacity and processing and treatment capabilities. It is ancitipated that the ultimate capacity of plant facilities in these fields will be designed to drain the gas reserves in 15 to 20 years.

In 1977 the Chunchula Field produced 3,216,403 thousand cubic feet (mcf) of gas and 1,501,335 barrels of condensate from 27 wells. The Hatter's Pond Field produced 4,493,177 mcf of gas and 1,287,989 barrels of condensate from 11 wells. Production from these fields is transported to various sales outlets (Figure D-4, Table D-3).

One injection well in the Chunchula Field and two in the Hatter's Pond Field are used to dispose of produced saltwater and plant effluents. The State Oil and Gas Board of Alabama regulates the construction, operation and maintenance of disposal wells used with oil and gas operations. The DEM is the lead state agency responsible for regulating the disposal of plant effluents. Therefore, approval from the DEM must be obtained if an injection well is to be used to dispose of both saltwater and plant effluent.

## b. Petroleum Consumption

In 1974 almost 50% of the energy consumed in Alabama was derived from petroleum and natural gas. Actual records of consumption are not available because they are not required to be reported. Therefore, sales volumes for certain petroleum products reported to various federal, state and local governmental agencies are assumed to equal consumption in the area. When sales volumes in the area were not available, statewide volumes were prorated on the basis of: vehicle registration to determine an estimate of gasoline consumed in Baldwin County and projected sales volumes from prior years in conjunction with population distribution to determine an estimate of fuel oil consumed in the area (Table D-4). Annual consumption of natural gas was considered to be equal to the volume distributed by the major natural gas utilities in the area (Tables D-3 and D-4).

A comparison of annual consumption with the volumes of petroleum and related products and natural gas produced at existing facilities indicates that the area theoretically produced all fuel oil consumed in 1977, produced approximately 83 per cent of the liquid petroleum gas (LPG) consumed, 27 per cent of the gasoline consumed and 6 per cent of the natural gas consumed. However, almost all petroleum and natural gas liquids and a majority of petroleum products produced in the area were transported, primarily by barge, to markets out of state. Therefore, the majority of fuel oil consumed, 93% of the LPG consumed, and 99% of the gasoline consumed were piped or barged into the area. The volume of petroleum and natural gas liquids, which is

exported for refining purposes and then ultimately returned for consumption in the area, are unknown at this time.

## c. Petroleum Demand Forecast

It is expected that gross consumption of petroleum products and natural gas will increase at the average rate of 1.7% per year with imports continuing to satisfy the majority of energy needs in the area. This projection is based solely on population growth in the area since the 1970 census.

## d. Needed Capacity

Facilities inventoried in Tables D-2 and D-3 may or may not be operating at designed capacities. In most instances, the operating capacity is controlled by the available supply of petroleum or natural gas rather than the design capacity of the facility. This holds especially true for natural gas pipelines and plants in the area and to a lesser degree for petroleum pipelines and related facilities. For this reason, the major pipelines are inventoried in terms of gas volumes distributed or petroleum throughput.

Depletion of natural gas reserves in Texas, Louisiana and Mississippi continues to diminish the volume of natural gas entering the major interstate transmission pipeline system that supplies the major gas utilities in the area. The increase in demand for natural gas ultimately required curtailment of supplies to these utilities in the early 1970's. Additional volumes of gas and petroleum could probably be transported through the pipeline system in the area if additional supplies were available.

## 2. Electricity

### a. Electric Facilities

Alabama Power Company is the principal supplier of electricity in the area and exclusive supplier of electricity in Mobile County. Electric generating facilities operated by Alabama Power are located in Mobile County near Chickasaw and Barry (Figure D-5, Table D-5). These facilities have a total installed (name plating) rating of 1,645,000 Kw and use coal, oil, or gas-fired boilers in powering turbines in the generation of electricity. Utilities that receive electricity distributed by Alabama Power in Baldwin County include the City of Fairhope, the City of Robertsdale, Baldwin County Electric Cooperative, and Riviera Utilities (Table D-5).

## b. Electric Consumption

Electricity provided 36.3% of Alabama's total energy needs in 1974. Approximately 4.145 megawatt hours are consumed annually in the Mobile-Baldwin Counties area.

The Barry Steam Plant is primarily a coal-fired electrical generating facility that also includes a fuel oil fired facility

Table D-4 The estimated consumption of petroleum products and natural gas in 1977.

Petroleum Product		Volumes (thousand barrels)
Gasoline		15,094
LPG		1,037
Fuel Oil		3,666
	<b>rotal</b>	19,797
Natural Gas Total		34.128 billion cubic feet

Table D-5 ELECTRICITY

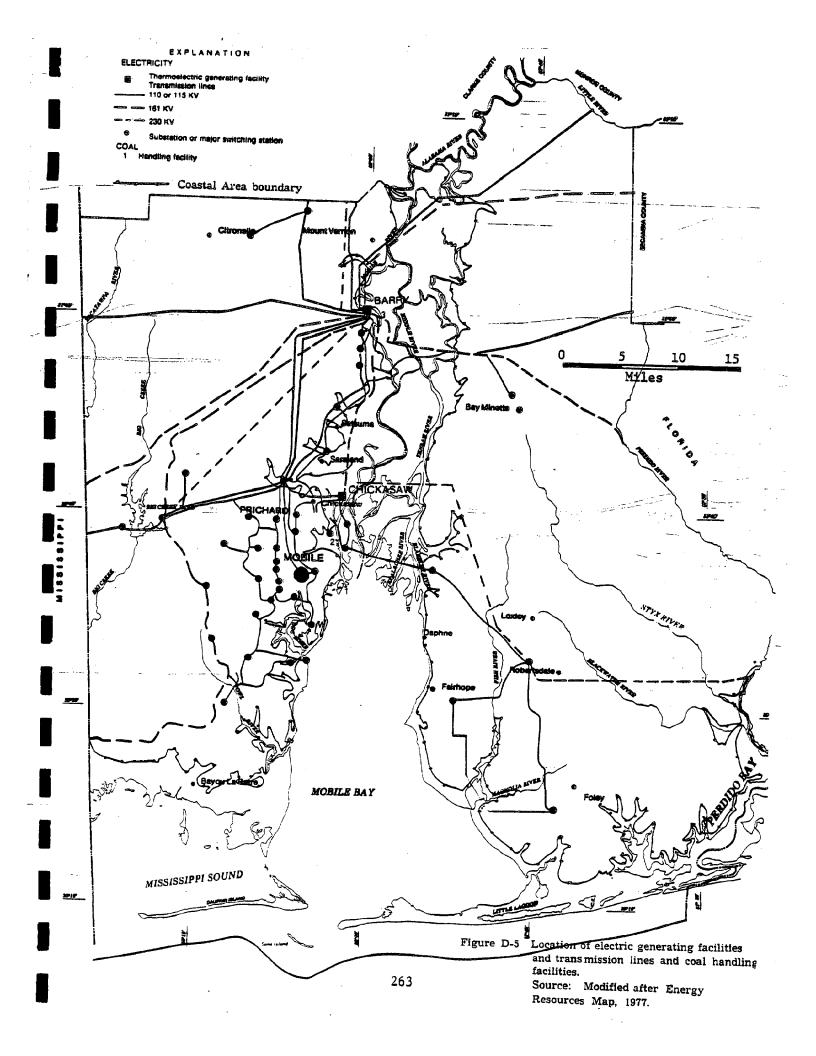
## Generating Facilities

Company	Facility	Installed (Name plate) Rating (KW)
Alabama Power	Barry	1,525,000
Alabama Power	Chickasaw Totals	120,000 1,645,000

## Transmission Lines

Company	ength of Major Lines (miles)	Average Daily Distribution (KWH)	
Alabama Power	688	5,604,000	
Utility sales outlets		*= -== 000	
(Baldwin County):		<b>*</b> 5,753,000	
Baldwin County Electri	ic 1,740		
Riveria	250		
City of Fairhope	85		
City of Robertsdale	15		
Totals	2,778	11,357,000	

<sup>\*</sup>Includes industrial customers served directly by Alabama Power in Mobile County.



during peak load demands. In 1977, the Barry Plant consumed 3,800,562 tons of coal; 147,746 barrels of fuel oil for boiler start-ups and fuel and fuel and flame stabilization and for firing the auxiliary unit used during peak demands; and 780,774 mcf of gas in the process of generating electricity. Approximately 95% of the coal consumed at the Barry Steam Plant, except during prolonged periods of work stoppage, is extracted in North Alabama and barged down river to unloading facilities operated by Alabama Power (Figure D-5).

The Chickasaw thermo-electric generating plant has a rated capacity of 120,000 KW. It is commonly used as a standby unit because of its inefficiency. Natural gas and fuel oil are used in the production of steam that drives the turbines in the generation of electricity. In 1977 the plant consumed 187,973 barrels of fuel oil and 2,489,116 mcf of gas.

## c. Electricity Demand Forecast

The need for electricity is expected to increase at a rate of 7% per year for the next 5 years to approximately 6,221 megawatts in 1983.

## d. Needed Capacity

At this time no new electric generating facilities are known to be required to meet forecasted demands in the area within the next 5 years. New generating facilities constructed by Alabama Power Company outside the area will supply the required increases through their statewide integrated network. However, within the next 10 years, Alabama Power does plan to construct a generating plant site approximately 15 miles north of U.S. Highway 31 between State Highway 225 and the Tensaw River in Baldwin County. This facility would supply the electrical needs of the general area for residential, commercial wholesale, and industrial customers.

## e. Electricity Transmission and Distribution Systems

Electricity, an increasingly important source of energy, is delivered to the customer through a transmission and distribution network. This energy originates at the generating plants and by way of transmission lines and substations is dispersed to given geographical areas where it is further distributed through subtransmission lines, distribution substations, and distribution lines. Most residential and commercial consumers receive this energy through distribution transformers and secondary lines. Some commercial and industrial customers are served at transmission or primary voltages.

According to Alabama Power Company, there are no ultra high voltage lines (745 kilovolts and above) in the Coastal Area, and there are no existing plans for such transmission lines. Research in this area is still preliminary, and evidence of adverse physiological effects from such voltage is not established at this time. Alabama Power Company indicates that the cost of installing and servicing

uderground lines is economically prohibitive as compared to overhead lines.

## 3. Coal

## a. Coal Facilities

Alabama's coal and lignite reserves lie north of the coastal area. In fiscal 1977, Alabama produced 22.6 million tons of coal, a 7% increase over 1976 volumes.

Much of the coal exported from Alabama is barged down river to the Alabama State Docks' coal handling facilities located at the southern end of Mobile Harbor on McDuffie Island (Table D-5, Figure D-6). Barge and rail facilities are capable of handling approximately 85,000 tons per day. Vessels 850 feet long with a 40-foot draft can be accommodated in the loading berth. Automated loaders and conveyors transport the coal directly to the vessel or to storage.

Other coal handling facilities in the area are owned and operated by industry for private consumption.

## b. Coal Consumption

In 1974 coal supplied 68% of the feed stock for the generation of electricity in Alabama. The majority of coal consumed at the Barry Steam Plant during 1977 was transported from coal fields in North Alabama.

### c. Coal Demand Forecast

As previously discussed, the increased demand for electricity, and hence coal, within the next 5 years will be primarily supplied through Alabama Power's statewide integrated network system. Because no new coal-fired electrical generating facilities nor expansion of existing facilities is expected, coal consumption in the coastal area should essentially stable.

## d. Needed Capacity

Since there will be no demand for additional volumes of coal used in the generation of electricity in the area, the capability of existing coal handling facilitie are expected to satisfy future needs for at least the next 5 years. However, upon the completion of the Tennessee-Tombigbee Waterway, increases in coal exports associated with this facility will require increases in coal handling facilities.

### B. PROCEDURES FOR ASSESSING SITE SUITABILITY

In order to ensure that the development of energy-related facilities within the Alabama Coastal Area is carried out in a manner that is consistent with the Coastal Area Management Program, a procedure for reviewing such proposed facilities has been developed by DEM.

Table D-6 COAL

Map Ref.	Company	Unloading	Capabilities (tons/day Loading
1	Alabama State Docks (McDuffie Terminal)	120,000	50,000
2	Alabama Power		No retail sales
3 -	International Paper Totals	120,000	No retail <u>sales</u> 50,000

When a person plans to construct an energy facility which may have a direct and significant impact on the Alabama Coastal Area, he will submit to the DEM a report which describes the impacts of a proposed facility on coastal resources.

The DEM will review each proposed project based on its impact on coastal resources. During this review period, the DEM will work with the applicant in an effort to determine solutions to any apparent problems. Each proposed facility will be reviewed to make certain that it complies with all relevant operational rules and regulations adopted by the DEM. Where practical solutions are not readily evident, the DEM will try to identify alternative locations for siting energy-related facilities where the impacts would not degrade the Coastal Area. The efforts of the DEM will be aimed toward developing a reasonable mechanism whereby a proposed energy-related operation may be carried on without degrading the Coastal Area.

## C. ALABAMA'S POLICIES FOR MANAGING ENERGY FACILITIES AND THEIR IMPACTS

Two coastal resource use policies in the ACAMP deal directly with energy-related activities in the Coastal Area:

- (1) Coastal Development The OSP will encourage and support to the maximum extent practicable the continued development of the economic resources of the Coastal Area, including the port, industrial, energy, and recreational resources so that they may continue their full contribution to the economic well-being of all citizens, and development within coastal Alabama will be carried out in a manner which is consistent with the ACAMAs policies for natural resources.
- (2) Mineral Resources and Extraction It is the policy of the ACAMP to encourage the extraction of mineral resources in coastal Alabma consistent with the water quality and natural resource policies of the ACAMP.

The ACAMAs has established Operational Rules and Regulations in order to implement its policies. Presented in Chapter 4, Section VII, these rules and regulations have been prepared to address specific coastal issues including the siting, construction and operation of energy facilities.

Through the provision of compelling public interest, as described in Chapter 4, Section VII (B), the DEM may make a determination as to whether the proposed energy-related facility is on balance, consistent with the management program. If determined by the DEM that the use is of a compelling public interest, the use shall be undertaken in a manner that, to the maximum extent practicable, minimizes degradation of the Coastal Area.

## D. PUBLIC INVOLVEMENT AND CONTINUED CONSIDERATION OF NATIONAL INTEREST REGARDING ENERGY FACILITY SITING

As described in Appendix E, Section II, it has been the intent of the ACAMP to involve all affected citizens, groups, and agencies in the coastal management planning process. This has been accomplished through a wide variety of activities and methods.

Besides numerous workshops, conferences, and meetings where energy-related interest grups were invited to participate, representatives from the American Petroleum Institute and its affiliate, the Alabama Petroleum Council, made oral presentations at public hearings held by the Coastal Area Board on the Workshop Draft in September 1978 and on the Hearing Draft in March 1979. A summary of the remarks presented on behalf of the American Petroleum Institute and Alabama Petroleum Council at the public hearing on the Hearing Draft states:

As you are aware, the Alabama Petroleum Council has previously presented some rather extensive comments and recommendations concerning the drafting of those regulations...

The State Geologist, who is also the head of the State Oil and Gas Board, serves as a member of the Coastal Resource Advisory Committee as established by Alabama Act 86-612. By serving on the Committee, the State Geologist can represent the State's position on oil and gas issues directly to the OSP to ensure that the ACAMP position on energy issues is fully coordinated with the state position.

A thorough discussion of the national interest related to energy facilities appears in Appendix E, Section I. Included in that section is a discussion of how the national interest in energy facilities was determined; what is the national interest in energy, how this national interest has been incorporated into the management program, and how this national interest may be considered continually.

The OSP has made extensive efforts in the past to involve the public in the development of the Coastal Area Management Program, and the ACAMP will require the expenditure of similar energies in the future to ensure that the public's interests are considered in energy decisions taken by DEM.

## E. IDENTIFICATION OF LEGAL AUTHORITIES AND MANAGEMENT TECHNIQUES TO\_IMPLEMENT\_STATE POLICIES AND PROCEDURES

Under existing legal framework of the State of Alabama on energy facility siting decision is made in separate decisions by several state and federal agencies.

- Each municipality is responsible for ensuring that the energy facility is constructed in accordance with local building, fire and other codes.
- Local jurisdictions are responsible for evaluating the impact of the proposed facility on adjacent land uses.
   Unincorporated areas have little or no control over land use compatibility.
- The DEM and the Mobile County Health Department are responsible for ensuring that proposed energy facilities meet state, federal and local air pollution regulations.
- The DEM is responsible for ensuring that proposed energy facilities meet water pollution control requirements.
- The Corps of Engineers reviews proposed energy facilities to ensure compliance with federal dredge and fill laws.
- The State Oil and Gas Board reviews oil drilling activities to ensure proper consideration is given to geologic features and to the preservation of groundwater supplies.

Recognizing the importance of energy related development to the Coastal Area and the fact that no single agency has the authority to review the entire range of impacts which could arise from the development of energy facilities in the Coastal Area, the legislature specifically identified energy development as a concern of the ACAMP. Section 5 of \$9-7 as amended mandates that the OSP develop a Coastal Area Management Program which includes "Provisions for the adequate consideration of the local, regional, state and national interest involved in the siting of facilities for the development, generation, transmission and distribution of energy..."

It is the intention of the DEM to carry out this responsibility by reviewing the potential impacts of proposed facilities based on the provisions of Chapter 4, Section VI, Operational Rules and Regulations, Chapter 4, Section III, Uses of Regional Benefit, and Appendix E, National Interest. APPENDIX E

# APPENDIX E

## PROGRAM ELEMENTS

# I. NATIONAL INTEREST IN THE SITING OF FACILITIES

Although no large areas are owned by the Federal Government in Alabama's Coastal Area, the ACAMP reflects the scope of national interest that exists in the Coastal Area. As provided for in Section 306 (c)(8) of the Coastal Zone Management Act, each coastal program must show that:

The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are more than local in nature.

A balance must be provided when planning for and siting of facilities with the national interest related to conservation and protection of coastal resources.

Further, the rules and regulations for Development and Approval of State Coastal Area Management Programs are very specific regarding consideration of the national interest in coastal management planning. To meet the requirements of the section of the Coastal Zone Management Act quoted above, Alabama was required to:

- (1) Describe the national interest in the planning for and siting of facilities considered during program development.
- (2) Indicate the sources relied upon for a description of the national interest in the planning for and siting of the facilities.
- (3) Indicate how and where the consideration of the national interest is reflected in the substance of the management program.
- (4) Describe the Process for continued consideration of the national interest in the planning for and siting of facilities during program implementation...

Early in the development of Alabama's coastal program, efforts were begun to identify activities and facilities located in Alabama's Coastal Area that were involved with the national interest. A concerted effort was made to inform involved federal agencies of the Alabama Coastal Area Management Program. This was accomplished through correspondence with federal agency representatives as described in the June 1976 Coastal Area Board publication entitled "Agency Identification and Coordination".

Numerous formal and informal conferences and meetings were held with Federal agencies to discuss issues of mutual concern in the Conference Coastal Area. Formal conferences included the Gulf States Conference Coastal Zone Management in September 1974, Governor's Conference on Coastal Zone Management in October 1974 and a Conference on Coastal Zone Management in April 1975.

As program planning progressed, identified federal agencies were provided further opportunities for input. Copies of a survey were mailed to each agency requesting their comments regarding proposed goals and objectives and policies of the ACAMP. During development of the Coastal Area Management Program the state worked closely with many federal agencies because of their extensive involvement in the Coastal Area. These agencies include:

Soil Conservation Service
Office of Sea Grant
Bureau of Land Management
Heritage Conservation and
Recreation Service

Office of Coastal Zone Management U.S. Army Corps of Engineers Fish and Wildlife Service National Coastal Ecosystem Team

Further, by consulting with Alabama state agencies that represent both state and national concerns, further consideration was given to the national interest. These included:

DEM's Air Division

Alabama Department of Conservation & Natural Resources Alabama State Docks Department DEM Water Quality Division State Oil and Gas Board Alabama Historical Commission

Coordination with these state agencies continued since the very early stages of program development. Additional information on the missions and authorities of these state agencies is contained in the appendices.

Copies of each draft document of the Coastal Area Management Program were sent to all identified federal agencies for their review. All comments especially those pertaining to the national interest, were carefully considered and appropriate revisions were made. All of the above state and federal agencies had the opportunity to review the draft.

Through this involvement, national interests have been considered throughout the development of the Alabama Coastal Area Management Program. More than 50 federal agencies were contacted and offered an opportunity to participate in all facets of the development of the Alabama Coastal Area Management Program. Every comment on each draft of the Alabama Coastal Area Management Program from involved federal agencies was carefully considered, appropriate changes were made in the document and responses to each were prepared for distribution.

As a result of the coordination described above, the State considered the following resources and uses of national interest retained by OSP in the development of the Coastal Area Management Program.

- (1) Uses of Regional Benefit as presented in Chapter Four, Section III, and
- (2) Uses of Compelling Interest as discussed in Chapter Four, Section II (B)(1), General Rules and Regulations.

The two provisions outlined above were incorporated to ensure that the national interest receives proper consideration in the ACAMP's decision-making process.

# Recreation

To determine the national interest in recreation, the following documents, legislation, and federal agencies were consulted:

- (1) Statewide Comprehensive Outdoor Recreation Plan,
- (2) Heritage Conservation and Recreation Service,
- (3) National Park Service.
- (4) Fish and Wildlife Service,
- (5) Historic Preservation Act, and
- (6) Land and Water Conservation Fund Act,
- (7) Executive Order 11593 (protection and enhancement of cultural environment).

The ACAMP depicts the major objectives of the national interest in recreation as:

- (1) Among competing uses in the Coastal Area, recreation is an equal.
- (2) High quality recreation opportunities should be provided for all citizens consistent with environmental protection.
- (3) There is a need for increased public recreational opportunities in high density areas.
- (4) Coordination and management of recreation areas should be improved.
- (5) Existing recreation areas should be protected from adverse adjacent uses.

The national interest has been incorporated into the Alabama Coastal Area Management Program through several means:

- (1) The DEM and OSP's Operational Rules and Regulations for providing Public Access and preserving the beaches and dunes are designed to make available recreational opportunities for all citizens.
- (2) The ACAMP has incorporated the Statewide Comprehensive Outdoor Recreation Plan which is consistent with the National Outdoor Recreation Plan.
- (3) Alabama recognizes that its recreational facilities, expecially its beaches and historic sites, greatly contribute to the national interest in recreation.
- (4) Five ACAMP policies in Chapter 3 deal directly or indirectly with recreation Recreation, Coastal Development, Water Resources, Water Quality, and Biological Productivity.

# Energy

To determine the national interest in activities related to energy production and transmission, the following legislation, documents, and federal agencies were consulted:

- (1) National Energy Plan,
- (2) Department of Energy Reorganization Act,
- (3) Outer Continental Shelf Lands Act,
- (4) Energy Research and Development Administration.
- (5) U.S. Department of Energy.
- (6) Bureau of Land Management,
- (7) U.S. Geological Survey,
- (8) U.S. Department of Transportation,
- (9) U.S. Nuclear Regulatory Commission

According to the National Energy Plan, the major national interests in energy involve:

(1) It is in the national interest to reduce dependence on foreign oil and vulnerability to supply interruptions. Obviously, this need will become increasingly important.

- (2) It is in the national interest to maintain U.S. oil imports low enough to weather the period when world oil production approaches its capacity limitation.
- (3) It is in the national interest to develop renewable and virtually inexhaustible energy sources for sustained economic growth.

The national interest in energy has been incorporated into the Coastal Area Management Program through several means:

(1) Title 9, Chapter 7 of the Alabama Code establishes the need and tools for and requires the ACAMAs (OSP & DEM).

To assure that in development of the state's Coastal Area adequate consideration is given to such uses of the Coastal Area as the establishment of harbor facilities for the receiving of oil, gas and other commodities from snips and tankers, pipelines from such ports; and utility plant sites, utility generation, transmission, distribution, and transportation facilities;

- (2) Two policies of the ACAMP deal directly or indirectly with energy—Coastal Development and Transportation. In addition, the State considered the national interest in energy when developing the Operational Rules and Regulations for Siting, Construction, and Operation of Energy Facilities as discussed in Chapter 4, Section VII.
- (3) The Port of Mobile has been designated as a GAPC because of the tremendous increase in port activity expected with the completion of the Tennessee-Tombigbee Waterway. The port will be the opening to the open sea for a large portion of cargo transported along this waterway. One of the major products to be transported will be coal. By designating the Port as a GAPC, the OSP will work within its own means to provide financial and technical assistance in developing programs to meet the demands on the Port of Mobile in coming years.

# Transportation, Ports, and Navigation

To determine the national interest in transportation, ports, and navigation, the following documents, legislation, and federal agencies were consulted:

- (1) Department of Transportation Act,
- (2) Railway Safety Act of 1970,
- (3) U.S. Coast Guard,

- (4) Federal Aviation Administration.
- (5) Materials Transportation Bureau,
- (6) Maritime Administration,
- (7) Office of Port and Intermodal Development.
- (8) U.S. Army Corps of Engineers, and
- (9) Interstate Commerce Commission.

The State determined that the major objectives of the national interest in transportation are:

- (1) To provide fast, safe, efficient and convenient access via one or more modes of transportation of people, goods and services to, through and from the Coastal Area and
- (2) To provide for a balanced national transportation system including all modes of transportation.

The national interest in transportation, ports, navigation has been incorporated into the Coastal Area Management Program through several means:

(1) The OSP recognizes the need for a balanced transportation system (including all modes) to move people and goods to, through and from the Alabama Coastal Area. In this regard, the Alabama Code ( \$9-7) states that permissible uses include:

The normal maintenance and repair of bulkheads, piers, roads highways existing on the date of final approval of the rules and regulations pursuant to this act.

- (2) Three policies of the OSP as well as the goals and objectives outlined in Chapter 3, deal directly with transportation, ports and navigation—Transportation. Coastal Development and Water Resources. In addition, the ACAMP reflects the importance of dredging navigation channels to support Coastal Alabama facilities. To ensure that coastal issues and impacts are fully considered, the OSP shall cooperate with all agencies preparing environmental impact statements for transportation, port, and navigation facilities.
- (3) The Port of Mobile, because of the expected growth in activity, has been designated as a GAPC. Through GAPC designation,— the OSP will work within its own means to provide financial and technical assistance in developing programs to meet the demands on the Port of Mobile in coming years.

## National Defense and Aerospace

To determine the national interest in national defense, and aerospace, the following documents, legislation, and federal agencies were consulted:

- (1) Department of the Air Force,
- (2) Department of the Navy,
- (3) U. S. Army Corps of Engineers,
- (4) National Aeronautics and Space Administration, and
- (5) U.S. Coast Guard.

The State determined that the national interest in national defense and aerospace is:

- (1) To ensure the sovereignty of the nation and protect its citizens against physical harm or expropriation, and
- (2) To establish and maintain these facilities necessary to carry out the first ojective.

The State recognizes the importance of national defense facilities to ensure the nation's sovereignty and to protect her citizens. Obviously, strategically located defense facilites are necessary to achieve these ends. Although no extensive defense installations exist in the Alabama Coastal Area, the ACAMP will not jeopardize the nation's security by precluding the construction or expansion of defense installations if a national emergency should occur. However, all construction should be conducted using best management practices.

## Air and Water Quality

In determining the national interest in air and water quality, the following documents, legislation, and federal agencies were consulted:

- (1) Federal Water Pollution Control Act,
- (2) Federal Clean Air Act.
- (3) U.S. Environmental Protection Agency

Obviously, the national interest in air and water pollution control is to provide clean air and water to enhance the quality of life for all citizens of the nation.

The national interest in air and water quality has been incorporated into the Alabama Coastal Area Management Program through several means:

- (1) Three of the policies of the ACAMP's --water quality, water resources, and air quality--listed in Chapter 3 deal directly with these concerns.
- (2) The Operational Rules and Regulations, as presented in Chapter Four, Section VII deal directly with air and water quality.

The standards established by the Federal Water Pollution Control Act and the Clean Air Act have been incorporated into the management. Nothing in the management program shall in any way affect any requirement established by either of these acts as amended or established by the Federal Government or any state or local government pursuant to these acts.

# Endangered Flora and Fauna

To determine the national interest in endangered flora and fauna, the following legislation, documents, and federal agencies were consulted:

- (1) Endangered Species Act of 1973, and
- (2) Fish and Wildlife Service

The State has determined that the national interest in endangered flora and fauna is:

- (1) To provide a means to conserve and enhance the ecosystems of endangered species, and
- (2) To provide a program for conservation of threatened and endangered species.

The State has considered the national interest in the Coastal Area Management Program through several means:

- (1) All natural resource policies as presented in Chapter Three, Section II.
- (2) Specifically, the endangered species policy as presented in Chapter Three, Section II.
- (3) All Operational Rules and Regulations for Natural Resources as presented in Chapter Four, Section VII.
- (4) Specifically, the Operational Rules and Regulations for Wildlife and Wildlife Habitat as presented in Chapter Four. Section VII.

# Wetlands

To determine the national interest in wetlands, the following documents and federal agencies were consulted:

- (1) The National Environmental Policy Act of 1969.
- (2) Executive Order 11988 Floodplain Management,
- (3) Executive Order 11990 Wetlands Protection
- (4) Section 404 of the Federal Water Pollution Control Act,
- (5) Fish and Wildlife Service,
- (6) U.S. Army Corps of Engineers
- (7) Soil Conservation Service.

The OSP has determined that the national interest in wetlands is:

- (1) To protect wetlands because of their value as habitat and food sources for aquatic life and waterfowl.
- (2) To protect wetlands because of their functions relative to flood prevention, storm buffering, water supply, nutrient exchange, and as a recreational resource, and
- (3) To regulate alteration of wetlands and disposal of dredged materials in U.S. waters and associated wetlands.

The State has considered wetlands in the Coastal Area Management Program through several means:

- (1) The ACAMP policy regarding Wetlands and Submersed Grassbeds, Shoreline Erosion, Hazard Management, biological Productivity, and Wildlife Habitat as presented in Chapter 3.
- (2) The ACAMP rules and regulations for Dredging and Filling.

Shoreline Erosion, Natural Hazards, Solid Waste Disposal, Water Quality, Wetlands and Submersed Grassbeds, and Wildlife Habitat as presented in chapter 4, Section VII.

## Continuing Consideration of National Interest

Section 5 of §9-7 (as amended) states that the coastal management program shall include:

Provision for adequate consideration of the local, regional, state and national interest involved in the siting of facilities for the development, generation, transmission, and distribution of energy, adequate transportation facilities and

other public services necessary to meet requirements which are other than local in nature.

The following basic components comprise the process for ensuring that the national interest in facility planning and siting is adequately considered:

- (1) There will be several additional opportunities for federal agency input into the planning process for the Alabama program through the review of subsequent program drafts as outlined in Chapter 1, Section IV.
- (2) Individuals and agencies who have expressed an interest in the Coastal Management activities of the DEM will receive notice of all DEM related commission meetings, and Coastal Advisory Committee meetings.
- (3) As outlined in Chapter 4, Section V, the federal consistency procedures will provide further opportunities for federal-state interaction.
- (4) Two other provisions included in the coastal Area Management Program, uses of regional benefit and compelling public interest, will allow the ACAMA's future opportunities to consider and address items of national interest. These provisions are discussed in Chapter Four, Sections III and VII.

## II. FULL PARTICIPATION

Throughout the initial development of the Coastal Area Management Program, the Coastal Area Board had a long history of citizen involvement as well as involvement by local, state, regional, and federal agencies was encouraged. Extensive efforts have been directed at gaining participation by everyone who might be affected by the Coastal Area Management Program in addition to providing information to the public regarding coastal management and the activities of the Coastal Area. Two years after Alabama's program had been approved, the state legislature amended our coastal legislation and transfered the responsibility for the program implementation to the Office of State Planning and Federal Programs and the Department of Environmental Management.

Section 1 of Alabama Code ( $\S 9-7$ ) as amended by Act 82-612 declares that it is State policy:

To encourage the participation of the public, of federal, state, and local governments, and of regional agencies in the development of coastal area management programs. With respect to implementation of such management programs, it is the state policy to encourage cooperation among the various state and

regional agencies including establishment of interstate and regional agreements, cooperative procedures and joint action, particularly regarding environmental problems.

Further, Section 4 of this code requires the OSP and DEM to coordinate activities and plans of all existing interest, other state governments, local governments, regional planning agencies, interstate compacts and commissions, and federal agencies which have programs relevant to the Coastal Area. This same intent is expressed in the Coastal Zone Management Act where it states that it is the national policy:

"To encourage the participation of the public, of Federal, State and Local governments, and of regional agencies in the development of coastal zone management programs."

Specifically, the Federal Rules and Regulations for development and approval of State Coastal Management Programs require the Alabama Coastal Area Management Agencies (ACAMAs) to:

- (1) Identify public and private agencies which may be affected by or have a direct interest in the Coastal Area Management Program;
- (2) Provide enough information to groups to encourage their informed participation;
- (3) Make opportunities and methods for participation widely known;
- (4) Demonstrate that comments and suggestions raised by the puclic are thoughtfully considered;
- (5) Identify and establish a regular consultative mechanism with groups with adopted plans;
- (6) Document the participation, consultation and coordination efforts of the ACAMA; and
- (7) Hold a public hearing on the entire management program. (Accomplished by the CAB).

This two way interaction process for coordination and participation between the ACAMAs and other involved entities could be best described through a recap of each of these efforts. For further discussions of interaction with federal agencies and consideration of federal views, refer to Appendix E, Sections I and II.

The composition of the Coastal Advisory Committees for coordination among a wide array of governmental levels and committee various interests. As discussed in another section, the committee is composed of two representatives of local city governments, two representatives from county governments, and four representatives from state agencies with particular coastal interests.

A mailing list of approximately 1,000 individuals was prepared including all identified local, state, and federal agencies, groups, organizations who may be "affected": by the program as well as all private citizens who had expressed an interest in the activities of the ACAMA. Notices of all activities of the (i.e. meetings, draft documents, newsletters, hearings, surveys) were mailed to all individuals included on this listing. This process allowed all involved persons to be aware of ACAMAs activities and informed them of opportunities for further involvement. The mailing list was maintained throughout program development and implementation.

The ACAMAshas hosted several public meetings regarding the Coastal Area Management Program. Each of these public meetings provided a forum to inform participants of matters related to the development of the program while interested individuals and agencies could make known their ideas and concerns about the Coastal Area.

Three conferences were held during early program development—— Coastal States Conference on Coastal Zone Management, July 1974; Alabama Governor's Conference on Coastal Zone Management, October 1974; and Coastal Leaders Conference on Coastal Zone Management, April 1975. At least 100 individuals attended each of these conferences representing governmental agencies from all levels. Environmentalists, industrialists, special interest groups, and the general public. A discussion of each of these conferences with the outcome of each appears in several Coastal Area Board publications: Proceedings of the Alabama Governor's Conference on Coastal Zone Management and Proceedings of the Alabama Coastal Leaders Conference on Coastal Zone Management.

A series of public meetings to discuss the boundary of the coastal area were held in five different locations within the two coastal counties. These meetings were held to receive public comment on several proposed boundary alternatives. As a direct result of these meetings, the Alabama Legislature passed Alabama Act 534 during the 1976 Regular Session (codified as Title 9 Chapter 7 of the Alabama Code) and amended in 1982 Special Session. The passage of this act provided for a Coastal Zone Management Program which is responsive to the citizens of Alabama.

A descriptive brochure entitled "Alabama's Coastal Area" was prepared and mailed to 10,000 residents of the two coastal counties. A 35-millimeter slide presentation with synchronized narrative was prepared to be used by the staff when they were invitied to speak.

Two issues of "Coastline", the Coastal newsletter, were published and mailed to all individuals on the Coastal master mailing list. This listing is composed of any individual who has expressed an interest in coastal activities and include federal, state, and local agency representatives, special interest groups, and private citizens. These meetings provided a forum where citizens and agency representatives could speak topics related to Coastal Amendment activities.

A public opinion survey, designed to learn about local feelings on goals, objectives and issues of the Coastal Area program, was completed through contractual arrangements with the Sea Grant Advisory Service. Those surveyed included the 700 individuals on the mailing list plus 40 citizens who attended one of the 6 workshops on issues, goals, and objectives of coastal area management. About 125 people returned their comment forms. In addition, a contract was let with a local firm that specializes in opinion polling to obtain a statistically valid survey of the attitudes of Mobile and Baldwin County residents concerning coastal matters. As expected, the results of the random sampling and statistically valid survey were very similar.

As a result of these two surveys and six workshops, goals, objectives, and policies were developed which reflected the concerns of all involved persons, groups, agencies, and organizations. These policies provide the basis for the ACAMP Operational Rules and Regulations.

Copies of the Workshop Draft of the Alabama Coastal Area Management Program were printed and distributed to all identified federal, state, and regional governmental agencies, local governmental groups, clubs, organizations, and interested individuals. This Workshop Draft presented the management philospopny and framework, and comments on the Workshop Draft were solicitied from all sources. Three public hearings were held to receive testimony regarding the Workshop Draft. More than fifty individuals provided comments on the Workshop Draft. These commentators represented agencies at all levels, special interest groups, and private citizens. All comments were then carefully considered, and appropriate revisions were made in the draft document. A listing of all comments and appropriate responses presented in the 100-plus page publication entitled, "Comments and Responses to the Workshop Draft of the Alabama Coastal Area Management Program".

The Hearing Draft was prepared based upon revisions to the Workshop Draft and the addition of particular program elements. This Hearing Draft represented the first complete presentation of the Coastal Area Management Program. Almost 1,200 copies of the document were printed for distribution to all identified agences, organizations, and interested citizens, and a public hearing was held to receive oral comments. All written and oral comments on the hearing draft were carefully considered by the Coastal Area Board, and individual responses were sent to all who commented.

Again, based on an analysis of all comments received, appropriate revisions were to the Hearing Draft. This revised document, along with an assessment of the impact of the Coastal Area Management Program on the Alabama Coastal Area and a statement of the Office of Coastal Zone Management Findings, formed the basis of the Draft Environmental Impact Statement.

As was the Workshop Draft and Hearing Draft, the Draft Environmental Impact Statement was distributed to a wide array of agencies, organizations, and interested citizens in late April 1979. The Office of Coastal Zone Management held a public hearing on the Draft Environmental Impact Statement in early June, allowing another opportunity for review and comment on the proposed program. The Draft Environmental Impact Statement was designed to provide a continuing opportunity for private citizens, special interest groups, and governmental agencies at all levels to participate further in the program development process. Based on all comments received, the Final Environmental Impact Statement was prepared. This two-way planning process has been extremely valuable to the development of the Alabama Coastal Area Management Program. Many beneficial changes resulted from the interaction of the State CZM Agency and interested parties, and a response was made to all suggestions and criticisms.

# Coordination of the Alabama Coastal Area Management Program with Other Relevant Plans

During the development of the Coastal Area Management Program, many relevant local and regional plans have been consulted. The major plans in this category include:

- (1) Water Quality Management Plan for Mobile and Baldwin Counties, Alabama. Prepared by the South Alabama Regional Planning Commission in compliance with Section 208 of Public Law 92-500, 1978.
- (2) Land Development and Policies Plan for Mobile, Baldwin, and Escambia Counties, Alabama. Prepared by the South Alabama Regional Planning Commission in accordance with Department of Housing and Urban Development federal regulations regarding lands use, 1977.
- (3) Alabama Statewide Comprehensive Outdoor Recreation Plan prepared by Agricultural Experiment Station at Auburn University, under terms of a contract research project with the Alabama Department of Conservation and Natural Resources. The development and printing were financed in part through a planning grant from the (then) Bureau of Outdoor Recreation, Department of the Interior, under provisions of the Land and Water Conservation Fund Act of 1965 (Public Law 88-578). 1975.
- (4) Long Range Development Plan for Facilities at the Port of Mobile, prepared for the Alabama State Docks Department, 1977.

- (5) Alabama State Implementation Plan prepared in accordance with the Clean Air Act of 1970 by the Alabama Air Pollution Control Commission, a division of the Department of Health. 1972.
- (6) Mobile Area Transportation Study prepared by South Alabama Regional Planning Commission. 1970

In addition to the plans listed above, the State has determined existing legal authorities which are currently exercised by State and federal agencies. These existing legal authorities, as presented in Chapter 4, Section VI, will provide an integral part of the Operational Rules and Regulations of the ACAMP. A general overview of existing legal authorities exercised by state agencies appears in Appendix A.

In order to effectively review regulated and nonregulated uses within the Coastal Area, the OSP has developed a detailed and comprehensive review procedure, as presented in Chapter 4, Section V. An integral step in this review procedure is Interagency Review. This process provides for and ensures that review will entail coordination between the OSP, DEM and other federal, state, or local agencies.

As a result of the passage of Act 82-612 the OSP and DEM amended the management program to reflect their roles in the management of the Coastal Area.

The revisions in this document reflects only the minimal changes dictate by the passage of the act. No changes in the program or its policies were included. Therefore draft review copies were only sent to the affected state agencies, members of the Coastal Resources Advisory Committee and the Office of Coastal Zone Management.

APPENDIX F

#### APPENDIX F

## SELECTED BIBLIOGRAPHY

- Alabama Department of Industrial Relations, Division of Surface Mine Reclamation. 1978. Surface Mining Operations Permits. Montgomery, Alabama.
- Alabama Development Office. Industry—New and Expanding. Published annually. Montgomery, Alabama.
- Alabama Historical Commission. 1978. Alabama's Tapestry of Historic Places. Montgomery, Alabama.
- Alabama State Docks Department. 1977. Annual Report. Mobile, Alabama
- Anderson, J. B. 1968. Ecology of Foraminifera from Mississippi Sound and Surrounding Waters. Alabama Academy of Science Journal, Vol. 394, pp. 261-269
- Auburn University Agricultural Experiment Station. 1970. Supply of Outdoor Recreation Resources in Alabama by Counties.
  Alabama's Statewide Outdoor Recreation Plan, Vol. 3. Auburn, Al.
- Auburn University Agricultural Experiment Station. 1971.
  Alabama's Coastal Land and Water Resources. Alabama's Statewide Comprehensive Outdoor Recreation Plan, Vol. 13. Auburn, Al.
- Auburn University Agricultural Experiment Station. 1975.

  Present and Projected Demand, Supply, and Needs for Outdoor
  Recreation in Alabama. Alabama's Statewide Comprehensive
  Outdoor Recreation Plan, Volume 2-1975 Plan. Auburn, Al.
- Baldwin, W. P. 1957. An Inspection of Waterfowl Habitats in the Mobile Bay Area. Alabama Department of Conservation, Game and Fish Division, Report 2.
- Barksdale, H.C., et al. 1976. Water Content and Potential Yield of Significant Aquifers in Alabama. Geological Survey of Alabama open file report.
- Bault, E. I. 1972. Hydrology of Alabama's Estuarine Areas. Alabama Marine Resources Bulletin 7.
- Boone, P. A. 1973. Depositional Systems of the Alabama, Mississippi, and Western Florida Coastal Zone. Gulf Coast Association, Geological Societies Transactions, Vol. 23.

- Boschung, H. B. 1976. Endangered and Threatened Plants and Animals of Alabama. Alabama Museum of Natural History, Bulletin 2.
- Brunson, F. H. 1951. Decapod Crustacea of the Mobile Area. University of Alabama Master's Thesis.
- Chapman, Charles. 1968. Channelization and Spoiling in Gulf Coast and South Atlantic Estuaries, in J. D. Newson, ed. Marsh and Estuary Management Symposium, Proceedings. Louisiana State University, Division of Continuing Education.
- Chermock, R. L. 1974. The Environment of Offshore and Estuarine Alabama. Geological Survey of Alabama. Information Series 51.
- Chilcott, Al. 1978. Housing Starts—Mobile and Baldwin Counties. South Alabama Regional Planning Commission. Unpublished.
- Crance, J. H. 1971. Description of Alabama Estuarine Areas.
  Alabama Marine Resources Bulletin 6.
- Department of Agricultural Economics and Rural Sociology. 1976. 1975 Alabama Statewide Comprehensive Outdoor Recreation Plan. Agricultural Experiment Station, Auburn University.
- Ecknardt, R. 1974. Open Beaches: A Public and Private
  Framework in Ditton and Seymour (eds.) Recreational Land
  Use and Coastal Zone Management: Issues and Persepctives in
  Texas. Texas A & M University, p. 85.
- Geological Survey of Alabama. 1978. Coastal Area Resources Data Synthesis, Baldwin and Mobile Counties. Unpublished manuscript.
- Godfrey, Paul J. 1976. Comparative Ecology of East Coast Barrier Islands: Hydrology, Soil, Vegetation, in Barrier Islands and Beaches. Technical Proceedings of the 1976 Barrier Islands Workshop, Annapolis, Maryland.
- Hardin, J. D., C. D. Sapp, J. L. Emplaincourt, and K. E. Richter. 1976. Shoreline and Bathymetric Changes in the Coastal Area of Aalabama. Geological Survey of Alabama. Information Series 50.
- Industrial Development: Some Answers. <u>In</u> Iowa Digest. October 1974. Des Moines.
- Keeler, J. E. 1972. Rare and Endangered Vertebrates of Alabama. Alabama Department of Conservation and Natural Resources, Game and Fish Division.

- Lamb, G. M. 1972. Distribution of Holocene Foraminifera in Mobile Bay and the Effects of Salinity Changes. Geological Survey of Alabama, Circular 82.
- Leutn, F. X. 1963. Mobile Delta Waterfowl and Muskrat Research.
  Alabama Department of Conservation, Pitman-Robinson Project
  7-R. Final Report.
- May, E. B. 1971. A Survey of the Oyster ad Oyster Shell Resources of Alabama. Alabama Marine Resources Bulletin 4.
- May, E. B. 1971. Appendix B, Atlas of a Survey of the Oyster and Oyster Shell Resources of Alabama. Alabama Marine Resources Bulletin 4.
- Mobile County Board of Health. 1970. The South Alabama Regional Air Pollution Study. South Alabama Regional Planning Commission. Mobile, Alabama.
- Moore, D. B. 1971. Subsurface Geology of Southwest Alabama. Geological Survey of Alabama. Bulletin 99.
- Moore, W. P., and Associates, Inc. 1977. Long Range Development Plan-Alabama State Docks Department, Facilities at the Port of Mobile. WPM Project 76121, Mobile.
- National Aeronautics and Space Administration. 1978. Coastal Resources and Environment. Digital Inventory Techniques Applications Project. National Space Technology Laboratories. Slidell. Louisiana.
- Parker, R. H. 1960. Ecology and Distributional Patterns of Macroinvertebrates, Northern Gulf of Mexico, in F. P. Shepard, ed. Recent Sediments, Northwest Gulf of Mexico. American Association of Petroleum Geologists.
- Peterson, C. G. 1947. Groundwater Investigations in the Mobile Area, Alabama. Geological Survey of Alabama. Mobile, Alabama.
- Real Estate Research Corporation. 1976. Business Prospects under Coastal Zone Management. A Report prepared for the Office of Coastal Zone Management, Washington, D. C.
- Reed, P. C. 1971. Geology of Baldwin County, Alabama. Geological Survey of Alabama. Map 94.
- Reed, P. C. 1971. Geology of Mobile County, Alabama. Geological Survey of Alabama. Map 93.
- Riccio, J. F., W. C. Ispnording, and C. A. Gazzier. 1973.

  Neogene Sediments of Mobile County, in Recent Sedimentation along the Alabama Coast. Alabama Geological Society.

  Guidebook, 10th Annual Field Trip.

- Sapp, C. D. and Jacques Emplaincourt. 1975. Physiographic Regions of Alabama. Geological Survey of Alabama. Map 168.
- Shannon, S. W. 1978. Geology in P. H. Moser and R. L. Chermock, eds. Geologic and Hydrologic Environmental Atlas of Mobile and Baldwin Counties, Alabama. Alabama Development Office open file report.
- South Alabama Regional Planning Commission, 1975. The Economy and population of the South Alabama Region. Mobile.
- South Alabama Regional Planning Commission. 1977. Environmental Baseline Study for Mobile 208 Wastewater Management Plan.
- South Alabama Regional Planning Commission. 1977. Regional Land Development and Policies Plan, Mobile.
- South Alabma Regional Planning Commission. 1978. Water Quality Management Plan, Mobile and Baldwin Counties.
- Stout, Judy P. 1977. Assessment of Alabama Coastal Marshes for Coastal Zone Management Planning. Final Report Project 39(1) 1976-77. Mississippi-Alabama Sea Grant Consortium.
- Swingle, H. A. 1971. Biology of Estuarine Areas. Alabama Marine Resources Bulletin 5.
- Swingle, H. A. 1977. Coastal Fishery Resources of Alabama.
  Alabama Marine Resources Bulletin 12.
- Swingle, W. E. 1976. Analysis of Commercial Fisheries Catch Data for Alabama. Alabama Marine Resources Bulletin 11.
- Trussell, Gayle R. Public Access on Alabama Gulf Coast. Auburn University, Cooperative Extension Service. In press.
- U.S. Army Corps of Engineers. 1955. Salinity Investigation in the Mobile River, Alabama. U.S. Engineer District, Mobile, Alabama.
- U.S. Army Corps of Engineers, 1967. Hurricane Survey of the Mississippi Coast. U.S. 90th Congress, 1st Session, House Document 99.
- U.S. Army Corps of Engineers. 1971. National Shoreline Study, Regional Inventory Report, South Atlantic-Gulf Region, Puerto Rico and Virgin Islands. U.S. Army Corps of Engineers, South Atlantic Division. Atlanta, Georgia.
- U.S. Army Corps of Engineers. 1971. National Shoreline Study, Shore Protection Guidelines. U.S. Army Corps of Engineers. Washington, D.C.

- U. S. Army Corps of Engineers. 1975. Workshop Meeting on Beach Erosion Control and Hurricane Protection for Mobile County, Alabama. U.S. Engineer District. Mobile, Alabama.
- U.S. Army Corps of Engineers. 1975. Final Environmental Statement Mobile Harbor (Maintenance Dredging). U.S. Engineer District. Mobile, Alabama.
- U.S. Department of Commerce, Bureau of the Census. 1960 and 1970. U.S. Census of Population.
- U.S. Department of Commerce, Bureau of the Census. 1972. 1972 Census of Manufacturers, Alabama MC72(3)-1.
- U.S. Department of Commerce, Bureau of the Census. 1975. Annual Survey of Manufacturers. M75(AS)-6.
- U.S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-26, No. 76-1.
- U.S. Department of Commerce, Bureau of Economic Analysis. Regional Economic Information System. Washington, D. C.
- U.S. Department of Health, Education and Welfare, Public Health Service. 1965. National Shellfish Sanitation Program Manual of Operations, Part 1. Sanitation of Shellfish Growing Areas. Washington, D. C.
- U.S. Department of the Interior, Bureau of Land Management. 1978. Final Environmental Impact Statement for Proposed 1978 OCS Oil and Gas Lease Sale Offshore Eastern Gulf of Mexico OCS Sale #65. New Orleans, Louisiana.
- Upshaw, C.F., W. B. Creath, and F. L. Brooks. 1966. Sediments and Microfauna off the Coasts of Mississippi and Adjacent States. Mississippi Geological Survey Bulletin 106.
- Vittor, B. A. and J. P. Stout, 1975. Delineation of Ecological Critical Areas in the Alabama Coastal Zone. Report 75-002. Alabama Marine Environmental Sciences Consortium.
- Wade, C. William. 1977. Survey of the Alabama Marine Recreational Fishery. Alabama Marine Resources Bulletin 12.
- Walter, G. R. 1976. The Miocene-Pliocene Aquifer and the Alluvial Aquifer, in Barksdale, H. C., and others, Water Content and Potential Yield of Significant Aquifers in Alabama. Alabama Geological Survey open-file report, chap. 3, p. 1-36.
- Walter, G. R. 1977. Water, in Moser, P. H., and Chermock, R. L., eds., Geological and Hydrologic Environmental Atlas of Mobile and Baldwin Counties, Alabama. Alabama Geological Survey open-file report, 271 p.

#### APPENDIX G

#### DEFINITIONS

- ACAMAS -- Alabama Office of State Planning and Federal Programs and the Department of Environmental Management.
- ACAMP REGULATED USES use which has a direct and significant impact on the Coastal Area and which does not require a state permit or which is not required by federal law to be consistent with the management program.
- AGENCY -- any unit, department, or office of federal, state or local government, including subdivisions thereof.
- AREAS FOR PRESERVATION AND RESTORATION (APR) special group of geographic areas of particular concern singled out because of their conservation, recreational, ecological, or aesthetic values.
- BEACH -- a sandy shoreline area characterized by low relief, generally of gentle slope, and some vegetation. The beach extends from the waterline to; 1) a change in physiographic form such as a dune or bluff, 2) a change in sediment type, such as clay from sand, and/or 3) a change in vegetation type.

Gulf beaches are those sand beaches of the mainland and islands in Alabama which are subjected to the direct wave action of the Gulf of Mexico. The upper limit of Gulf beaches is usually a transition from halophytic, succulent, prostrate plant forms such as Hydrocotyl bonariensis (pennywort), Cakile epentula (sea rocket), Iva imbricta (no common name), and Ipomoea Stolonifera (seaside morning glory) to a zone occupied by grasses, shrubs, and the same prostrate forms mentioned above. Some grasses indicative of this transition are Uniola paniculata (sea oats), spartina patens (saltmeadow cordgrass). Shrubs found at this transition are Solidago pauciflosculosa (seaside goldenrod), Ceratiola eriocoides (seaside rosemary), Ilex vomitaria (yaupon), Quercus virginica car. maritima (live oak), and Myrica cerifera (waxmyrtle).

Estuarine beaches are narrow, low energy beaches occurring along the protected margins of Mobile Bay, Perdido, Bay, Mississippi Sound, and their various tributaries. The upper limit of estuarine beaches in Alabama can be distinguished easily by any or all of the three boundaries mentioned previously, that is; 1) a change in physiographic form, 2) a change in sediment type, or 3) a change in vegetation type.

- CERTIFICATE OF COMPLIANCE -- document sent to state agency certifying that after careful review of a proposed use, the Department of Environmental Management determined the proposed use is in compliance with the Coastal Area Management Program.
- CERTIFICATE OF CONSISTENCY document sent to federal, state, or local agency certifying, that after careful review of a proposed use, the Department of Environmental management has determined the proposed use is in compliance with the Coastal Area Management Program.
- COASTAL AREA coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the lands therein and thereunder) strongly influenced by each and in proximity to the shorelines of Alabama, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches.
- COASTAL RESOURCES -- valuable human, natural, cultural or historical assets within the Coastal Area, such as water quality, air quality, wetlands and submerged grassbeds, beaches and dunes, wildlife habitats, biological resources, cultural resources, public access to the Coastal Area, and water resources.
- COASTAL WATERS -- areas adjacent to the shoreline, which contain a measurable quantity or percentage of seawater, including but not limited to, sounds, bays, lagoons, bayou, ponds and estuaries.
- CODE -- Title 9, Chapter 7 of the Alabama Code as amended by Act No. 82-612.
- COMPELLING PUBLIC INTEREST -- a right recognized at law or an economic, environmental, health, or social interest shared by most persons in the Coastal Area, which if not recognized and protected, would jeopardize the public well-being.
- CONSTRUCTION SETBACK LINE -- a line running parallel to the snoreline at a point 40 linear feet inland of the most inland point of the "crestline".
- CONTINUING INTERAGENCY COORDINATION -- consultation, both formal and informal, between the Department of Environmental Management and any federal, state, or local agency proposing to issue a license or permit for any use in the Coastal Area.
- CRESTLINE -- a line running more or less parallel with the shoreline interconnecting the peaks of the primary dune system.

- CULTURAL RESOURCE -- any district, building, site, object, or other material in American history, architecture, archeology, or culture which is of national, state, or local significance.
- DEGRADE to affect the Coastal Area in such a manner as to produce a continuing reduction or destruction of present levels of coastal resources.
- DEM -- Alabama Department of Environmental Management.
- DEM APPROVAL the approval of any activity requiring a state permit, any use subject to federal consistency provisions, and any local code or the issuance of any DEM permit.
- DEM REVIEW the procedure by which the DEM reviews uses subject to management for the purpose of determining whether or not to do any of the following: issue or deny a certificate of consistency; concur with or object to any person or agency's determination of consistency; issue or deny a DEM permit; or approve or disapprove a local code.
- DIRECT -- existence of a causal relationship in which the consequence of an action or use exerts an impact upon the Coastal Area through an identifiable link or process.
- DISCHARGE -- the addition, introduction, run-off, leakage, spilling or emitting of any waste from any source into the coastal waters.
- DREDGING -- removal or excavation of any materials from lands underlying coastal waters.
- DUNE -- see definition of primary dune system.
- ENERGY FACILITY any equipment or facility which will be used in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of any energy resource or for the manufacture, production or assembly of equipment, machinery, products, or devices involved in the activities listed above.

- ENERGY FACILITY CONSTRUCTION AND OPERATION PLAN a plan submitted by persons wishing to construct energy facilities which shall identify the impacts of the proposed energy facility on the following coastal resources:
- 1. Water Quality
- 2. Air Quality
- 3. Wetlands and Submersed Grassbeds
- 4. Beaches and Dunes
- 5. Wildlife Habitat
- 6. Biological Resources

- 7. Cultural Resources
- 8. Public Access
- 9. Shoreline
- 10. Flood and Hurricane Mitigation Areas
- 11. Water Resources
- 12. Associated Land Use
- 13. Other coastal resources
- FEDERAL ACTIVITIES -- any function performed by or on behalf of a federal agency in the exercise of its statutory responsibilities.
- FEDERAL CONSISTENCY -- the provisions by which; 1) federal agencies conducting or supporting uses significantly affecting the Coastal Area are required to conduct or support those uses in a manner which is, to the maximum extent practicable, consistent with the Management Program; 2) federally licensed or permitted uses which may have a significant impact upon the Coastal Area must be conducted in a manner consistent with the Management Program; 3) any person submitting to the U.S. Secretary of the Interior a plan for the exploration of, or development of, or production from, any area leased under the OCS Lands Act shall certify that activities described in the plan which significantly affect the Coastal Area will comply with and will be conducted consistently with the Management Program; and 4) federal assistance to state and local governments must be consistent with the Management Program to the extent that it significantly affects the Coastal Area.
- DETERMINATION OF CONSISTENCY document sent to the DEM by any person stating that a use proposed to be undertaken by that person is consistent with the management program and complies with all relevant rules and regulations.
- FEDERAL DEVELOPMENT PROJECT -- federal activity involving the planning, construction or modification of public works, physical facilities, or other structures, or land or water resources development.
- FEDERAL LAW -- the Coastal Zone Management Act of 1972 and its 1976 amendments.
- FEDERAL LICENSE OR PERMIT -- any authorization, certification, approval, or other form of permission, and any renewal thereof, which any federal agency is empowered to issue to an applicant.

- FILLING introduction of any substance into coastal waters or wetlands with the effect of replacing an aquatic or wetland area with dry land, or significantly changing the bottom elevation of coastal lands underlying coastal waters for any purpose.
- FINAL DEM ACTION an order of the DEM issuing or denying a certificate of consistency, concurring with or objecting to any person or agency's determination of consistency, issuing or denying a DEM permit, approving or disapproving a local code, or the revocation or suspension of such a concurrence, issuance, permit, or approval.
- GEORGRAPHIC AREA OF PARTICULAR CONCERN (GAPC) a certain area within coastal Alabama determined to be of particular concern because of its coastal-related values or characteristics, or because the area faces special pressures.
- INTERAGENCY REVIEW PROCESS review between the agency staff and the DEM staff of the proposed project to identify information gaps and other relevant aspects of the project.
- LOCAL AGENCY any duly authorized county or municipal government or agency of a county or municipal government, or special district.
- LOCAL CODE -- any regulations, rules, plans, maps, ordinances, codes, or other related documents as well as any subsequent changes thereto which regard uses subject to management.
- LOCAL PERMIT -- any license or permit issued for a use which has a direct and significant impact on the Coastal Area by a duly authorized agency of the State of Alabama.

## MAJOR PROJECTS --

- (a) construction and operation of energy facilities;
- (b) construction and operation of industrial plants;
- (c) construction of new roads over 1/2 mile in length;
- (d) dredging operations over 250,000 cubic yards:
- (e) filling operations over 250,000 cubic yards;
- (f) dredge spoil disposal over 250,000 cubic yards;
- (g) structural methods of erosion control;
- (h) water wells which pump over 50 gallons per minute;
- (i) facilities for the disposal of waste materials including but not limited to municipal and industrial effluent and solid waste:
- (j) commercial and residential projects over 25 acres; and
- (k) other major projects which may be identified by the Board as having a direct and significant impact on the Coastal Area.
- MANAGEMENT PROGRAM includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or

- other media or communication, prepared and adopted by the state in accordance with the provisions of \$9-7-1 (as amended) setting forth objectives, policies and standards to guide public and private users of lands and waters in the Coastal Area.
- MEDIATION -- process used by DEM or the Office of State Planning and Federal Programs and federal agency in cases of serious disagreement to resolve such serious disagreements.
- MORE THAN NEGLIGIBLE EFFECT the results of an activity which are important enough to warrant attention.
- NECESSARY INFORMATION all information received by the DEM or Office of State Planning and Programs from the person submitting an OCS plan pursuant to the Department of the Interior's operating regulations governing exploration, development and production operations on the OCS and regulations pertaining to the OCS information program plus:
  - (1) other information required by the DEM or Office of State Planning and Federal Programs
  - (2) brief assessment relating to the probable coastal zone effects of the activities and their associated facilities to the relevant elements of the management program; and
  - (3) a brief set of findings, derived from the assessment, indicating that each of the proposed activities and their associated facilities and their primary effects are all consistent with the provisions of the management program.
- NEW ROADS -- state, federal, and local roads over 1/2 miles in length.
- OSP -- Alabama Department of Economic and Community Affairs, Office of State Planning and Federal Programs.
- OUTER CONTINENTAL SHELF (OCS) PLAN any plan for the exploration or development of or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.), which is submitted to the Secretary of the Interior following management program approval by OCZM and which describes in detail federal license or permit activities.
- PARTY any person applying for a DEM review, any state or federal agency directly involved in a DEM or OSP review, any person subject to a DEM order or notice, or person who appeals a final DEM action.

- PRELIMINARY DISCUSSIONS informal or formal meetings between any person intending to submit to the Secretary of the Interior and the OSP or DEM an OCS plan regarding the means for ensuring that such activities will be conducted in a manner consistent with Alabama's Coastal Area management program.
- PRIMARY DUNE SYSTEM a ridge or series of ridges of unconsolidated and usually mobile sands lying landward of the upper limit of Gulf beaches which serves as the principal defense against storm wave attack. Vegetatively, this primary protective dune can be characterized by Uniola paniculata (sea cats), Spartina patens (saltmeadow cordgrass), Panicum amarulum (dune panicgrass), Distichlis spicata (salt grass), Solidago pauciflosculosa (seaside goldenrod), Hydrocotyl bonariensis (pennywort), and Ipomoea stolonifera (seaside morning glory).
- REGULATED USE use which has a direct and significant impact on the Coastal Area and which requires a state permit or which is required by federal law to be consistent with the management program.
- SIGNIFICANT IMPACT the result of any activity carried out by a person which is likely to have an adverse effect on the Coastal Area.
- SPECIAL MANAGEMENT AREA areas which might require special attention beyond the general planning and regulatory system of the managment program.
- STATE LAW -- Title 9, Chapter 7 of the Code of Alabama as amended by Act No. 82-612.
- STATE PERMIT any license or permit issued for a use which has a direct and significant impact on the Coastal Area by a duly authorized agency of the State of Alabama.
- SUBMERSED GRASSBEDS -- areas within the Coastal Area which support rooted vegetation that are not normally emerged even at low tide but remain covered within coastal waters.
- USE -- any numan or corporate activity or result therefrom.
- USE OF REGIONAL BENEFIT -- a use which produces some benefit by providing services or other benefits to citizens of more than one unit of local government.
- USES NOT SUBJECT TO MANAGEMENT PROGRAM -- uses which do not have a direct and significant impact on the Coastal Area.
- USES THAT REQUIRE NO STATE OR FEDERAL PERMIT -- uses that have a direct and significant impact on the Coastal Area but require no permit from other federal, state, or local

agency—includes uses which affect beaches and dunes, salt water intrusion, and nonpoint sources of pollution, or other uses which may at any time be determined by the DEM.

WATER DEPENDENT USE -- those uses which must, under normal operating conditions, be located on or in or immediately adjacent to coastal waters in order to be physically and economically practicable.

WETLANDS — those areas that are inundated or saturate by surface or ground water (salt and fresh) at a frequency and duration sufficient to support, and/or under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Vegetation typically adapted to wetlands in Alabama include but are not limited to the following vegetative species and in addition their presence in significant quantities creates a presumption that the area is a wetland:

1) Saltmarsh

Spartina alterniflora Juncus roemerianus

2) Brackish-Mixed Marsh

Juncus roemerianus
Spartina Cynosuroides
Distichlis Spicata
Borrichia frutescens
Scirpus spp.
Spartina alterniflora
Spartina patens

3) Saltflat

Salicornia sp. Batis maritima Distichlis spicata

4) Fresh-Mixed Marsh

Typha angustifolia
Typha latifolia
Sagittaria falcata
Zizania aquatica
Zizaniopsis miliacea
Alternanthera philoxeroides
Scirpus validus
Scirpus americanus
Orontium aquaticum
Phragmites communis
Cladium jamaicense
Panicum virgatum
Vigna repens

5) Saltbush

Baccharis halimifolia Iva frtescens Iva imbricata

6) Savannah

Spartina patens Pinus elliottii

Pinus palustris
Rhynchospera spp.
juncus spp.
Andropogon spp.

Sphagnum spp.
Sarracenia spp.
Cyrilla racemiflora
Ilex glabra
Drosera spp.
Dichromena colorata

7) Bogs

